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Current Topics.

Sir Harry Trelawney Eve.

THE announcement of the retirement of Mr. Justice EVE, the senior judge of the Chancery Division, after more than twenty-nine years in office will be received with the greatest regret by all branches of the legal profession. Whilst appreciating his desire to make room for a younger man, there is no doubt that EVE, J., will be greatly missed. His kindliness and dry humour, coupled with a capacity for absorbing the minute details of the most difficult cases, were only a few of the qualities which produced that admirable combination, a popular and sound judge. The simultaneous announcement of his appointment to the Privy Council will delight his many friends and admirers as the meet reward of so many years of public service.

The New Judge.

THE vacancy in the Chancery Division caused by the retirement of EVE, J., has been filled by the appointment of Mr. GAVIN TURNBULL SIMONDS, K.C., to the Bench. The new judge who was called to the Bar in 1906, took silk in 1924, and has since enjoyed one of the most successful practices of recent years at the Chancery Bar. His appointment, in which we wish him happiness and success, was practically a foregone conclusion to those who knew him in the profession.

Who is a Widow?

SOME years ago LORD MACMILLAN, in an interesting address at Birmingham to the Holdsworth Club, declared that one of the chief functions of our courts is to act as an animated and authoritative dictionary. How true this is will be readily seen by turning over that section of the Digests headed "Words," where are collected the various definitions given by judges of those terms calling for explanation. But what may be regarded as a curious feature of this branch of the court's work is that what seem the simplest words in our vocabulary appear to give more trouble than the more complex terms. Many of us can recall the long drawn out fight as to the exact connotation of the word "place," and others equally simple in appearance have caused the like trouble in their exposition, as, for instance, the word "accident" in relation to the Workmen's Compensation Act, which of itself has contributed quite a long list to the legal vocabulary. Quite recently the Court of Session in Scotland has had to face the problem: What or who is a widow within the meaning of the Widows', Orphans' and Old Age Contributory Pensions Act, 1925. The relevant facts giving rise to the question were these: a Mrs. Colgan was married in 1924, she had a child in 1927, and in 1931 she divorced her husband, who died in 1935. Thereafter Mrs. Colgan claimed an allowance in respect of her child under the Act mentioned. This claim was rejected by the Referee on the ground that the applicant, on divorcing her husband, was no longer his wife and consequently was not his widow when he died, and as under the Act a child's allowance is payable only to the "widow" of an insured person who is in receipt of a widow's pension, no allowance was payable. On a case stated for the opinion of the court, the learned judges had no hesitation in affirming the ruling of the Referee. Attention was drawn to the fact that while it was deemed necessary to define the word "orphan," namely, as a child "both of whose parents are dead," it was not thought equally necessary to define "widow," the draftsman apparently considering it self-explanatory and so clear that even he who runneth may read. Although the court held that the applicant was not a "widow," and consequently not entitled to sustain a claim in respect of the child, it might well be urged that she brought herself within the spirit, if not within the letter, of the Act, and that in any amending statute the Legislature might well envisage and make provision for such a set of circumstances as those dealt with in the case before the Court of Session

Central Criminal Court: March Session.

ONE charge of murder, two of attempted suicide, three of wounding, one of causing grievous bodily harm, and five of bigamy, figure in the list for the March Session of the Central Criminal Court, which opened on Tuesday. The list also included two charges of demanding money with menaces, one each of robbery while armed, coining, fraudulent conversion, conspiring to defraud, false pretences, obtaining credit by fraud, and stealing, three each of forgery, and breaking and entering and one offence under the Bankruptcy Acts. At the beginning of the week there were forty-seven persons awaiting trial or sentence. Cases in the High Court judge's list this month are being dealt with by FINLAY, J.

Discharged Prisoners' Aid.

In view of its general interest, brief reference may be made to matter contained in statements or speeches delivered at the recently held twenty-fourth annual meeting of the Brixton Prison Discharged Prisoners' Aid Society. The proceedings took place at the Mansion House, and the Lord Mayor presided. Langton, J., in moving the adoption of the accounts, said that, speaking broadly (we quote from *The Times*) not more than 10 per cent. of the criminal classes were moral degenerates. They were persons who through early associations or some moral kink were unable or unwilling to go straight. The large majority, however, were composed either of creatures of impulse who had made one mistake through some unreflecting impulse, or were persons who could be described as human derelicts. A letter from Sir John Simon expressed appreciation of the work and emphasised that it was vital that the efforts made for the training and reformation of prisoners within the walls should not be allowed to lapse at the moment of release. Mr. George H. Heilbuth, Chairman and Hon. Treasurer, stated that the average cost of a prisoner to the State was £92 11s. per annum, and urged that, apart from other considerations, it was to the advantage of the tax-payer to subscribe to the society. Mr. Norman Birkett, K.C., said that nobody could quite realise what it meant to a man who had fallen to find a helping hand held out to him at such a time. It was said that on the opening of an expensive establishment to assist youth, a speaker had declared that if only one boy was saved the money was well spent. To a questioner who expressed doubt, and said, "Surely you do not mean that all this expense would be worth while for one boy?" the reply was made "Yes! if it were my boy." Captain F. H. L. Stevenson, Governor of Brixton Prison, gave some indication of the value of the work in the light of results. Out of 147 "first time" men, he said, 144 were helped, and only two of those men had come back. Out of 2,000 odd debtors 1,100 had been assisted. The speaker read appreciative letters from men placed in permanent employment who were doing well, and said that donations of 10s. had been received from two of them

Road Safety: Users' Co-operation.

A sound note was struck by Lieutenant-Colonel J. T. C. Moore-Brabazon, presiding at the luncheon recently given at the Savoy Hotel by the Order of the Road, when he deprecated the drifting of road users into three separate camps—pedestrians, cyclists and motorists—all accusing each other of being largely responsible for the casualty figures. Propaganda by the organisations interested had, he said, tended rather to accentuate these differences; yet no difference really existed, for anyone in the course of the day might be pedestrian, cyclist or motorist, or even all three. This inter-dependence might be further emphasised under present conditions of life, so largely the product of easy transport, by reference to other than personal user of the roads. The speaker went on to explain that it was with the knowledge that these three sections of road users were drifting apart rather than co-operating to solve the problem that the Order of the Road invited the Cyclists' Touring Club, the National Cyclists' Union, and the Pedestrians' Association to see if together they could work out some form of recommendation and action that might help. They went into conference not to claim their "rights," but rather to alleviate the public's wrongs. Motorists, he continued, were the latest comers on the road; it was due to the advent of the motor car in such quantities that conditions hitherto tolerable but out-of-date had made life so precarious upon the highways. They recognised that the motorist, by reason of the physical protection afforded him by his own vehicle, as against the cyclist and the pedestrian, carried an extra responsibility, commensurate with that protection. They could not, it was said, unfortunately, get initial agreement confirmed with the Pedestrians' Association, but they would go a long way to get their co-operation. If demands agreed by all the diverse users of the roads were put forward to the authorities, based on the protection of human life, they would, it was urged, have the support of the whole public and be overwhelmingly powerful. Having ourselves drawn attention in these columns to the undesirability of a too zealous pressing of *ex parte* claims while the slaughter on the roads continues substantially unabated, we welcome this effort to secure co-operation among all sections of road users. It would be folly to ignore the difficulties which lie ahead of this as of all reasonable enterprises, but if the result is nothing more than an increased appreciation of the fundamental identity of the interest of all users of the highway the efforts will not have been wasted.

Parking Cars: Proposed Regulations.

The Minister of Transport's announcement at the annual dinner of the Institution of Chartered Surveyors on Tuesday of a policy to eliminate parking of cars in streets has not been accorded an unmixed reception. Reference was made to the increased powers now vested in local authorities under s. 16 (1) of the Restriction of Ribbon Development Act, 1935, in regard to the provision and maintenance of buildings for use as parking places and the provision of underground parking places, and to the power contained in s. 17 to require the provision of means of entrance, egress, etc., as a condition of approval of building plans (as to the application of these provisions to London, see s. 20 (3)). When local authorities have had time to take advantage of these provisions the Minister intimated that he would appoint no more parking places, and that he would progressively diminish the existing number of such places. Two reasons were given for the change: increased facilities for the movement of traffic, and the inherent undesirability of pleasant squares and quiet streets being invaded by cars which have no real claim to be there. A third—road safety—might well have been added. The policy, as at present outlined, involves a somewhat strict construction of the term "parking," the intention being to fix a date after which the leaving of cars in streets, except for the immediate purpose of taking up and setting down at houses or shops, will be prohibited. At the time of writing protests are mainly directed to the loss of business which it is thought will follow the imposition of the proposed restrictions. If the progressive diminution of parking facilities in streets and squares is accompanied by increased facilities, whether provided by private enterprise or in response to the statutory powers already referred to, motorists will gain rather than lose by the change, and in our view the recognition of the present nuisance and the plan for its removal are alike to be commended. The problem is one which should be viewed from the standpoint of all road users and town dwellers, and, in our opinion, its realities should not be obscured by over zealous *ex parte* criticisms of the character alluded to in another "Current Topic" in the present issue.

The Law of Libel.

During the past year we have made a number of allusions in these columns to a number of proposals made for the alteration of the law of libel with a view to eliminating, or at least minimising, opportunities which the present law is thought to afford in some quarters to the speculative litigant. This subject, among others, was dealt with in the annual report adopted by the Empire Press Union at the recently held annual general meeting of that body. Reference was made in the report to the private member's Bill for the amendment of the law of libel which failed to reach discussion on second reading last November. The Bill, it is said, had been criticised by an international association of authors as not being sufficiently drastic, while in a few legal quarters it had been thought to go too far. The main provisions of the Bill have already been outlined in these

columns (80 Sol. J. 923), and need not be repeated here. Steps had been taken, the same report intimates, in co-operation with the Newspaper Society, to ascertain the attitude towards it of Members of Parliament. The Publishers Association and the Incorporated Society of Authors were chiefly concerned with the question of liability for damage resulting from unintentional similarity of a character in fiction to a living person. Newspapers, on the other hand, were less concerned with cases arising from fictional characters than with those based on allusions to living persons which, under existing conditions, were liable to involve very heavy awards in damages and costs, although the actual damage sustained might have been insignificant. After very careful consideration, and on legal advice, it was decided to retain the Bill in its present form, which, it is urged, deals adequately with the worst forms of abuse to which the existing law is open, from the point of view of all interests concerned. Sir Stanley Reed, who in the absence abroad of Major Astor, M.P., and of Mr. Cecil Harmsworth (hon. treasurer) was elected to take the chair at the meeting already alluded to, said that they had made some progress towards getting a satisfactory law of libel. He urged that it could not be made too clear that the Union and the newspapers it represented stood for a strong law of libel, which they agreed was necessary for the protection of the public. They did not want to drift towards the position of certain other countries which were mentioned where no one was secure, but at present, it was said, they saw the law courts turned into a theatre for gambling, where they found their opponents tossing with a double-headed penny. Sir Herbert Grotian took a less optimistic view of the progress made. It was true, he said, that there was a Bill before Parliament, but it was a private member's Bill, and he was never very hopeful that a private member's Bill on a controversial subject like that in question would get through the House unless someone could induce the Government to take it up.

Caravans: Public Health Act, 1936.

In the course of a paper read last Monday at the Chartered Surveyors' Institution Mr. Christopher Chart drew attention to the nuisance occasioned by the uncontrolled use of movable dwellings, which he described as a serious menace to the amenities of the countryside in Surrey and other counties, and made reference to the provisions of s. 269 of the Public Health Act, 1936. It may be recalled that the section enables a local authority—the council of a borough, urban district or rural district—to grant licences (and attach conditions thereto) (i) authorising persons to allow land occupied by them within the district to be used as sites for movable dwellings, and (ii) authorising persons to erect or station and use such dwellings within the district. Subject to the provisions of the section, a person is prohibited from allowing any land occupied by him to be used for camping purposes for more than forty-two consecutive days or more than sixty days in any twelve consecutive months unless he holds in respect of the land so used a licence within para. (i), *supra*, or each person using the land as a site for a movable dwelling holds a licence within para. (ii) (*ibid.* sub-ss. (1) and (2)). Sub-section (3) prevents evasion of the new provision by merely nominal removal, while there are a number of saving clauses which cannot be outlined here. It should be stated, however, that the section does not apply, unless declared to be in force by the Minister of Health on application of a local authority, to any district in which at the commencement of the Act (1st October, 1937) there is in force a local Act containing provisions enabling the local authority to regulate, by means of bye-laws or licences or otherwise, the use of movable dwellings or camping grounds. It may be noted that certain provisions of the Housing Act, 1936, relating to the repair, demolition and closing of insanitary premises apply to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken under ss. 9–17 of the Act (*ibid.* s. 23).

Recent Decisions.

In *Drapers' Company* v. *London Passenger Transport Board* (p. 199 of this issue), it was held that the proper measure of compensation payable in respect of the compulsory purchase by the defendants of premises in Cheapside was, as the defendants contended, to be determined in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and not those of the Lands Clauses Acts as modified by the London Electric, etc., Railways Act, 1931, which would have enabled the plaintiffs to add 10 per cent. to the value of the land taken.

In *The Judges* v. *The Attorney-General for Saskatchewan* (p. 196 of this issue), the Judicial Committee of the Privy Council affirmed a decision of the Court of Appeal of Saskatchewan to the effect that the judges of the Court of Appeal, of the Court of King's Bench and of District Courts of the Province of Saskatchewan, appointed by the Governor-General pursuant to s. 96 of the British North America Act, 1867, were subject to the taxation authorised by the Income Tax, 1932, of Saskatchewan, being otherwise persons subject to that Act, and that the legislature of that province had authority to include in income, for the purposes of the Income Tax Act, the salary and allowances of these judges paid pursuant to the Judges Act, cap. 105, of the Revised Statutes of Canada, 1927.

In *Harris* v. *J. Lyons and Co. Ltd.* (*The Times*, 27th February), judgment was given for the defendants in a case in which the plaintiff claimed damages in respect of illness alleged to be due to eating mushrooms at one of the defendants' restaurants. There was a conflict of medical evidence as to the nature of the illness, some typical symptoms of food poisoning not being present. Swift, J., expressed sympathy with the plaintiff, but intimated he had not discharged the onus of proving that the illness was due to the mushrooms. The defendants had not been negligent; they were most careful. Nor was there breach of contract or breach of warranty on their part.

In *Rex* v. *Salford Assessment Committee*; *ex parte Ogden* (p. 198 of this issue), the Court of Appeal reversed a decision of the Divisional Court and granted a rule to prohibit an assessment committee from allowing one who was employed as chief committee clerk and registration and elections officer in the town clerk's department of the rating authority for the assessment area, and who had been appointed as acting clerk to the assessment committee, to remain in attendance on that committee during the hearing of the rating authority's objection to a proposal to amend the valuation list in regard to the property of the person at whose instance the rule *nisi* for prohibition had been obtained. Slesser, L.J., intimated that the mere duplication of offices in the rating and assessment committee would not of itself afford grounds for granting the rule, but the facts of the case fell within the maxim that it was not only necessary that justice should be done, but that it should manifestly appear that justice was done.

In *Byrne* v. *Deane* (*The Times*, 3rd March), the Court of Appeal reversed a decision of Hilbery, J., who had given judgment for the plaintiff for 40s. in a libel action tried at Lewes Assizes "to show that the plaintiff was justified in bringing an action to show that he did not give information to the police" in regard to the presence in a golf club of certain automatic machines which had been removed after a police complaint. The Court of Appeal held that the words of a doggerel lampoon posted by someone in the club-house containing the innuendo that the plaintiff had reported to the police certain acts wrongful in law were incapable of a defamatory meaning.

Criminal Law and Practice.

WHO IS AN "OCCUPIER"?

It seems to be the fate of legislation originally intended to be couched in simple and intelligible language to become gradually overlaid with decisions on the meaning of its apparently most obvious words. The Workmen's Compensation Acts were an outstanding example, and the Factory and Workshop Act, 1901, provides a good illustration, perhaps in a lesser degree, of the same phenomenon. The word "occupier" in the Factory and Workshop Act, 1901, s. 136, came under examination recently at the Clerkenwell Police Court (*R.* v. *Caxton Floors Ltd.*, *The Times*, 19th and 26th February).

The prosecution arose out of the sad circumstances in which Sir Edwin Deller met his death while being conducted round the new London University building site. The defendants were sub-contractors for the floors of the new building. An opening on the first floor, which the prosecution submitted should have been protected by a movable handrail and toe board, was unprotected on one side to allow a skip to be wheeled in and out with concrete. When Sir Edwin Deller arrived on the site, a workman who was emptying a skip full of material on the first floor fell with the skip on to Sir Edwin Deller and his party. The defendants were charged with a breach of the Building Regulations, 1926, as well as under s. 136 of the Factory and Workshop Act, 1901. The latter section only applies where a person is killed or dies or suffers any bodily injury or injury to health, and the offence is charged against the occupier of a factory or workshop whose neglect to observe any provision of the Act or any regulations made in pursuance of the Act has caused the accident. The maximum penalty under the section is £100, and, in the case of a second or subsequent conviction for the same offence within two years from the last conviction, not less than £1 for each offence.

It was argued that the defendants were not "the occupiers" as the hoist was provided and operated by the main contractors. Counsel for the defendants also made the point that s. 136 only applied to workmen, and not to visitors. The learned stipendiary magistrate held that the latter argument failed. With regard to the question as to who were "occupiers," he said that there may be more than one person responsible and that the defendants were liable, even though there were other people responsible and even more responsible. The defendants were fined £5 on the first summons and ordered to pay £2 10s. costs. The second summons was not dealt with separately. It will be interesting to hear further argument on this question, and the learned magistrate's intimation that he would be willing to state a case seems to promise this.

In *Rumsey* v. *Mackie* (1904), 9 Fraser, 106, 109, Lord McClaren said: "Occupier plainly means the person who runs the factory . . . who regulates and controls the work that is done there, and who is responsible for the fulfilment of the provisions of the Factory Act within it." Under s. 142, if in a factory the owner or hirer of a machine or implement moved by steam, water or mechanical power is some person other than the occupier of the factory, so far as offences in relation to employees are concerned, the owner or hirer of the machine is deemed to be the occupier of the factory. Section 104 provides, *inter alia*, that any person who, by himself, his agents or workmen, uses machinery or plant for the purpose of loading and coaling ships, is deemed to be the occupier of a factory within s. 136. It would seem that the type of case which arose at Clerkenwell is not specifically dealt with in the Act, and it is arguable on the basis "*expressio unius est exclusio alterius*" that in this type of case the word "occupier" must be strictly construed. It is submitted, however, that the learned magistrate was right in holding that s. 136 was not intended for the protection of workmen exclusively, as the section clearly designates "any person," and not merely workmen.

TRAFFIC SIGNALS AND FIRE ENGINES

Mr. Brodrick gave an important decision at Clerkenwell on the 18th February with regard to the duties of drivers of fire engines when approaching traffic lights. The case (*R.* v. *Mabbott*, *The Times*, 19th February) was one in which the driver of a fire engine was charged with driving without due care and attention, and failing to conform with automatic traffic signals. The fire engine collided with a private motor car and four persons were injured. The defendant said that as he passed the red light an officer rang the bell continuously. His instructions were to use his discretion. The magistrate dismissed the summons for driving without due care and attention and fined the defendant 20s. with 21s. costs for failing to conform with the traffic lights. It was argued on behalf of the defendant that under s. 12 of the Metropolitan Fire Brigade Act, 1865, "the chief or other officer in charge of the fire brigade may, in his discretion . . . take any measures that appear expedient for the protection of life and property." Mr. Brodrick, however, pointed out that fire engines were exempt from the speed limit (Road Traffic Act, 1934, s. 3), and from the hooting restrictions (Road Traffic Act, 1934, s. 9), but not from the law as to traffic signals (Road Traffic Act, 1930, s. 49, and Road Traffic Act, 1934, s. 36).

The provision in s. 12 of the Metropolitan Fire Brigade Act, 1865, giving general powers to the chief fire brigade officer, seems to apply principally to powers and duties at the burning premises and should be construed *ejusdem generis* with these duties. Very great danger to traffic might arise if fire engines were exempt from the traffic signal regulations, and there can be little doubt that the law on this point is in the circumstances appropriate.

The Rules of the Supreme Court.

X.—THE CONDUCT OF A CASE.

Of interlocutory proceedings the litigants themselves see little and know much less—until the day of reckoning arrives! But the trial itself, how long and tedious, they think, how slow and wearisome and full of irrelevance! What has *that* question, pray, to do with *this* case, they testily ask, pressed for an answer by learned counsel on the other side. Sometimes, indeed, the whole of their life seems to be in issue, whereas the question at stake is really so short; they must needs explain an indiscretion, or some past or present difficulties in finance, or even the secrecies that are family affairs. In a proper and necessary endeavour to discredit, counsel returns again, and yet again, to the same point, when the witness, least expecting the recurrent sally, gives vent to a flood of anger, long repressed. His most innocent of words and acts he finds construed in a way of which he never dreamed! Lawyers, it is well known, make bad witnesses. Any lawyer who has borne the brunt of cross-examination must have seen in a flash the difficulties and the dangers of being under fire; he has indeed told the whole truth, as he remembers it; yet how, to his amazement, and, indeed, annoyance, has it been riddled beyond recognition!

In the county court a case is generally disposed of quickly, without much waste of time; advocates know that it cannot, if adjourned, "go over" to the next day, but must wait perforce, a month or more. Moreover, solicitors and counsel must return to office and to chambers, perhaps to another case in another court and many a mile away. The cause list is there to be finished, and finished for the most part, it usually is.

How different are things in the High Court! A *cause célèbre*, of course, may last for days! The stakes are high;

the parties are men of wealth, prepared to pay to have their say. In such a case there is no hardship; but this is the exception, not the rule. In the vast majority of civil actions, the parties, even if they are not without means, cannot, for the most part, afford the luxury of a lengthy trial. Yet how often do we not observe a simple case unnecessarily prolonged by the prolixity of cross-examination, undisciplined and unrestrained! This, indeed, is matter for the temper and discretion of the particular judge who tries the case; the latitude allowed will tend to vary with the eminence of the advocate. It is proper for a judge, no doubt, to permit to an advocate of experience more scope in questioning than he might be willing to concede to an advocate who is clearly in his early years at the Bar. The one will be making "blind shots"; the other, by a series of simple, and apparently obvious and harmless questions, is slowly and surely achieving the objective that a frontal assault would fail to capture. Maybe the judge himself is too enchanted by the charm, the skill and melody of such an advocate! Yet, in the ordinary case, is not the shortest cross-examiner at the same time the most effective? It may be thought, indeed, that brevity is one of the tests of ability and of experience.

The point has not escaped the attention of our judges. Lord Atkin expressed the view that:—

> "The hearing of cases could be quickened up without there being any real loss to anybody . . . I think there is a great waste of time in cross-examination. I think a great many cross-examinations are much too long, and are ineffective just because they are too long." (Minutes of Evidence, p, 238; 3397.)

On the other hand, one has observed leading counsel how he refrained from cross-examining, in a running-down action, the plaintiff who had been brought into court on a stretcher. What discrimination! How great a test of strength. To concentrate and cross-examine upon a few essential points, although such conduct may displease the lay client, and even his advisers, will prove in the end the better tactics.

Lord Justice Greer, having in mind the addresses of counsel, observed that:—

> "The increasing tendency to hear everything that can be urged on one side or another, while it has helped the satisfactory decision of cases, has undoubtedly increased the amount of judicial time required for that decision." (Cited from a letter to *The Times*, at p. 396.)

Very recently, Viscount Sankey (the Lord Chancellor, as he then was) made an important pronouncement upon the functions and the boundaries of cross-examination. In his speech in *Mechanical Inventions & Lehwess* v. *Austin and the Austin Motor Co.* [1935] A.C. 346 (at pp. 359, 360), he adopted the general sense of the remarks in that case which had been made by the Master of the Rolls.

That action was indeed one of great difficulty and complication; it was tried by a judge and jury and lasted fourteen days. The cross-examination of one party occupied 265 pages of the shorthand notes, and the cross-examination of the other party, 148 pages. There was "a tedious iteration" in some of the questions, said the Master of the Rolls, and upon certain trivial matters "prolonged emphasis" had been laid. Cross-examination was "a powerful and valuable weapon"; it was entrusted to counsel to be used "with discretion," not forgetting the assistance to be rendered to the court and the burden imposed upon the witness. Viscount Sankey proceeds in noble language:—

> "A protracted and irrelevant cross-examination not only adds to the cost of litigation, but is a waste of public time . . . it is not sufficient for the due administration of justice to have a learned, patient and impartial judge. Equally with him, the solicitors who prepare the case and the counsel who present it to the court are taking part in the great task of doing justice between man and man." (at p. 360.)

Very true. Yet what—it may be asked—has all this discourse upon the length of cross-examination to do with the Rules of the Supreme Court?

A reference to Ord. XXXVI, r. 38 contains the answer to this question:

> "The judge may in all cases disallow any questions put in cross-examination of any party or other witness which may appear to him to be vexatious, and not relevant to any matter proper to be inquired into in the cause or matter."

Yet how rarely does one observe this rule in use! Perhaps the rule is so wide as to be useless in practice, and deserves to be drafted in more precise terms. True, it is for the discretion of the judge, but the sphere is large, nay, unlimited: not only may "vexatious" questions be disallowed, but even questions "irrelevant" to material facts. A more liberal use of this power it is, with great respect, suggested, would materially shorten the length of trials and reduce their expense. Cross-examination would be the better for being more succinct and substantially relevant to the matters into which inquiry is being made. Justice would by no means suffer, nor even the appearance of justice. On the short view, "refreshers," it is true, might be fewer and less recurrent; but again, on the long view, prospective litigants being less deterred by the fear of an ineluctable bill of costs, would feel less hesitation in bringing their disputes to the courts for settlement.

Before concluding this survey, one other matter must be mentioned, decisive indeed, in most cases, and of more moment even than the amount at stake. Straightway let this be put in the words of a living Master in the Common Law, who, for almost a quarter of a century, has graced the Bench, first as puisne judge, then as Justice of Appeal, and for almost a decade, as Lord of Appeal. At the end of his evidence before the Royal Commission (p. 245, 3472–5), Lord Atkin made the following stimulating suggestion:—

> "I, personally, am not satisfied with the system of taxation in the High Court. I hear of perfectly dreadful sums which are allowed. I cannot understand how they can be justified. According to our system of taxation nobody can review a taxing master as to *quantum*, and that seems to me to be quite wrong. I should like the bill without any review to be taken before the judge who actually tried the case so that he should express his own view about *quantum*."

It would be useful, he added, if judges dealt more frequently with special items of costs immediately after trial. Many fees, he thought, were "really most unjustifiable." "Very often the client does not understand what he is doing." A "great diminution" of the costs could be effected by "a little personal scrutiny" of the costs by the judge himself.

The Commission, for their part, recommended that on an enlarged summons for directions, the master would make a note of any respect in which a party has been unreasonable so that the judge could penalise this conduct by way of costs (Cmd. 5065; pp. 79, 80). Without going as far as Lord Atkin would go, they agreed upon the need for "a closer examination of costs by the judge at the trial than is now usual" (p. 81). Little use has been made of Ord. XXXII, r. 4, under which admissions of facts may be asked for, and which provides that the costs of proving such facts "*shall* be paid by the party so neglecting or refusing" whatever be the result of the action, unless the judge certifies that the refusal to admit was reasonable or unless he makes any other order. Judges, as a rule, make a general order as to costs: they rarely consider in detail whether a party in any particular way has or has not been unreasonable. The Commission did not recommend a discussion of costs as a "regular epilogue to every judgment," but they thought it necessary that the judge should consider points "specially referred to him by the master, and that "he should be firm in penalising unreasonable conduct in procedure whatever the decision on

the merits. Without this sanction any efforts of the masters will be ineffective."

Order LXV, r. 1, provides that—

"Subject to the provisions of the Act and these Rules, the costs of and incident to all proceedings in the Supreme Court . . . shall be in the discretion of the court or judge."

Under this rule it is open to the judge to penalise a party on any issue; but by tacit consent discussion on particular items of costs is very rare. If such discussions were more frequent, the results to everyone concerned would be salutary.

Upon the suggestion that the judge be empowered to review the *quantum* of costs this can be said. The judge who has tried the whole case from beginning to end, who has seen the witnesses and inspected the documents, who can possibly be in a better position to estimate—not in matters of detail, but as a matter of principle—if not the reasonable costs of the parties, at least the limit beyond which any costs incurred are excessive? Not infrequently is a debt in respect of costs the cause of a judgment summons, sometimes even, in a heavy case, of a petition in bankruptcy. The other day a learned judge of the King's Bench Division could not withhold an exclamation of amazement upon hearing that the agreed costs of an assignment (counsel's fees being fifteen guineas), were no less than £90!

The Sum of the Whole Matter.—The function of this series of articles upon the Rules of the Supreme Court has been to call attention to some of the manifest defects in the present system of procedure in the High Court, and to make suggestions for their emendation. The absence, in fact, of a liberty to sign summary judgment when there is no real defence to an action; the useless persiflage of modern pleadings; the abuse and the ineffective costliness of interlocutory proceedings; the weary waiting by the litigants for the day of battle; the rigid rules of documentary proof; that vain voyage of discovery into which too often cross-examination vaguely wanders; the unimaginable load of ultimate costs—upon the need for reforming these and other defects, judges and members of the Bar, solicitors and the representatives of Chambers of Commerce are, on the whole, in principle agreed. Only recently did Parliament, on the initiative of the Lord Chancellor, improve and consolidate the procedure in the county courts, followed by the drafting, by a committee of judges, of a new code of county court rules. The last few years have witnessed certain substantial changes in procedure in the High Court, formulated both in statute and by rules of court. But, after fifty years of "trial and error," it is high time that "the Rules of the Supreme Court, 1883," as amended, were reconsidered as a whole, were redrafted in a shorter, more concise and simple form, were rendered more intelligible, and were so phrased as to hold the meaning that they appear to bear. Then might the business community resort to the courts again and the ordinary individual have less hesitation in going to law to ascertain his rights. Yet in the larger aspect the problem is not simply one of increasing the business of the courts or of bringing to a depressed profession the boon of wider opportunity. For complete confidence in the machinery of justice is one of the pillars of a civilised and a contented state. Thus, if the simplification of the Law of Property was a great achievement of permanent value, the simplification of the Law of Procedure will be by far the greater and the more permanent; a Lord Chancellor who succeeded in introducing a new code of Rules of the Supreme Court would take his place among the pioneers of the Laws of England.

(*Concluded.*)

A Reception of past and present students of The Law Society's School of Law will be held at The Law Society's Hall, Chancery Lane, W.C.2, on Thursday, 18th March, at 8 p.m., to meet the Solicitor-General, Sir Terence O'Connor, K.C., M.P.

Costs.

MISCELLANEOUS POINTS.

We have been asked from time to time to deal with various points that crop up in practice, and we propose touching on a few of these in this and the next article.

We will take in the first place the matter of the taxing-master's discretion. Although there is a scale of costs laid down in App. N, of the Supreme Court Rules, and that scale is supplemented by the taxing-master's notes of 1902, the fact remains that the taxing-master has an extremely wide discretion. In fact, Ord. 65, r. 27 (29), gives the taxing-master discretion to allow all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party.

The taxing-master may thus increase any item in the scale set out in App. N, if it seems to him to be right and proper so to do; and he is not hampered in his discretion by the fact that certain items in the scale may be labelled with such directions as "not to exceed" or "not exceeding." Thus, item 20 in the scale provides a fee of "not exceeding" 13s. 4d. (lower scale) for a special summons to attend at the judge's chambers, item 23 a fee of "not exceeding" one guinea (lower scale) for an originating summons for proceedings in Chambers in the Chancery Division, whilst item 78 provides for a fee which is "not to exceed" one guinea for instructions to counsel to advise on evidence. Notwithstanding that these fees are expressed to be the maximum, the fact remains that in each case the taxing-master may increase the fees to such figure as he thinks proper.

These are merely illustrations of items which are expressed to be maximum allowances, but which the taxing-master may, in his absolute discretion, increase if he sees fit. Farwell, J., in the case of *In re Ermen, Tatham* v. *Ermen* [1903] 2 Ch., examined the meaning of this sub-s. 29 in its relation to the general scale set out in App. N, and he pointed out that this sub-rule was new in comparison with the scale, and must accordingly be treated as having been framed with the provisions of the scale well in mind. In expressing the view that sub-rule 29 over-rides the limitations of the scale, his lordship said: "I see no difficulty in giving a general discretion to the taxing officers of the court to be exercised in exceptional cases, in addition to the ordinary discretion which is bounded by a maximum and minimum; I see no reason why he should not have a two-fold discretion, namely, a discretion to allow the maximum or minimum, or something between the two, and, in addition to that, in special cases a general discretion to allow 'all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party.'"

Whilst, however, it is clear from this that the taxing-master has full discretion to increase the items in the scale, he has no such discretion to *reduce* the amount of the items below the minimum. This point was brought out in *Price* v. *Clinton* [1906] 2 Ch. 487, where the taxing-master sought to disallow the full scale fee of 6s. 8d. for attending and entering an appearance in each of several actions where the appearances were all entered at the same time. The point taken in objection appeared to be that where there are a number of defendants in the one action, then the solicitor who is acting for all defendants is only entitled to a fee for entering appearances, of 6s. 8d. for the first defendant and 1s. for each subsequent defendant.

The obvious answer to this is, of course, that this particular case did not relate only to one action, but to a number of separate actions, and item 69 provides a fee of 6s. 8d. in each action in which an appearance is entered. It is true that item 60 provides a fee of 1s. for entering an appearance for

every defendant beyond the first, where a number of appearances are entered at the same time, but this obviously refers to a case where there are a number of defendants in the one action.

There is not sufficient space available to deal in the present article with all of the other items upon which we have been asked to comment, but we can just turn our attention to one more point. A dispute was recently made the subject of an arbitration, and the arbitrator, in awarding the claimant a sum of £45 by way of damages, directed that the respondents should pay the costs of the arbitration; that is, the claimants' costs thereof.

The respondents contended that the costs must be dealt with on the county court scale, on the ground that s. 116 of the County Courts Act, 1888, as subsequently amended, applies. This amended section, it will be remembered, provides that if an action is brought in the High Court which could have been brought in the county court, and a sum of £40 or more but less than £100 is recovered, then the plaintiff shall only be entitled to costs on the county court scale. The respondent's contention in this particular case was based on the fact that since the arbitrator's award may be enforced as an order of the court, it is, in effect, to be regarded in the same light as a judgment.

The matter did not come before a taxing-master, so that we are deprived of the benefit of an authoritative decision on the matter, but it does seem that the respondent's contention in the above case is resting on insecure ground. The principal and it is thought a fatal objection to this contention would be that s. 116 (*supra*) applies only to *actions* commenced in the High Court. Although the arbitrator's award may be regarded in the same light as a judgment, the fact remains that no action has been commenced in the High Court, and this does seem to be a condition precedent to the application of s. 116.

Moreover, it was held in the case of *Street* v. *Street* [1900] 2 Q.B. 57, that where an action was referred to an arbitrator and the latter awarded a sum within the county court scale, the costs of the reference were to be taxed on the High Court scale. The circumstances of that case, it is true, may be somewhat different from those relating to ordinary commercial arbitrations, but the fact remains that unless special directions are given in the award as to the particular scale on which the costs are to be taxed, it seems that the ordinary High Court scale is to apply.

Company Law and Practice.

Some Consequences of Signing the Balance Sheet.

Two cases have recently been before the courts in which it has been sought to determine the state of accounts between directors of a company and the company by reference only to statements contained in a balance sheet which they had signed. The more recent of these two cases, *In re General Preserving Company Ltd.* (1937), 1 All E.R. 693, came before Bennett, J., last month, and I think that it deserves detailed consideration. The company was a private company which had been recently incorporated and which had not made an auspicious beginning to its operations. On the contrary it had sustained a fairly heavy trading loss in its first year. The share capital was owned by two gentlemen, of whom one was the managing director and holder of 4,990 shares out of a total of 5,000 issued shares. This same gentleman had also advanced the sum of £3,400 to the company by way of loan. This being the position, on discovering that the company's loss in its first year amounted to £1,612 6s. 8d., the managing director agreed "in order to strengthen the position of the company" to forego a part of his legal rights in connection with his debt of £3,400. He was, however, asked to make the extent of his concessions quite clear and this he did. Shortly, the agreement into which he entered was that he would not claim repayment of so much of his debt as was equal to the company's trading loss (i.e., £1,612 6s. 8d.), except out of available profits of the company. He, however, reserved to himself the right to rank *pari passu* with the other creditors of the company for the whole amount of his debt in the event of the company going into liquidation. This arrangement was made known to the company's accountant and auditor who prepared the next balance sheet in the light of this knowledge, setting off £1,612 6s. 8d., part of the managing director's loan, against the "loss for the year to date," and carrying nothing into the assets column, where one would normally expect to find the debit balance on profit and loss account as the balancing figure. The usual auditor's certificate appeared on the balance sheet and the balance sheet was signed by the managing director and the other shareholder, who was also a director. Subsequently the company went into voluntary liquidation, and the managing director put in a proof for the sum of £1,612 6s. 8d., part of the original debt of £3,400, the rest of which had been previously paid back to him by the company. It was not disputed that this sum of £1,612 odd was a debt due to him by the company, and that this debt had never been disposed of by release or otherwise or satisfied by accord or satisfaction. Nor was it claimed that there was any debt due from the managing director to the company which could be offset. The liquidator, however, rejected the proof, and it is necessary to summarise the reasons which he gave in his notice of rejection for doing so. After referring to the agreement which I have already outlined and which had been recorded in the minute book of the company, the liquidator based his rejection on the balance sheet which showed the loan account as £1,787 13s. 4d. only, this figure being obtained by deducting from the total original debt of £3,400 the £1,612 6s. 8d. which was set off against the trading loss. This balance sheet, according to the liquidator's contention, operated by reason of its having been signed by the managing director as an estoppel, and if this view was correct then the £1,787 odd having been, as already stated, repaid by the company before the commencement of the liquidation, the managing director could have no further claim against the company. It was argued that the balance sheet, as drawn, gave the company a fictitious credit, inasmuch as the £1,612 odd was represented over the managing director's signature as being the company's money, and that such representation continued down to the date of the passing of the resolution for voluntary winding up, and that therefore the reservation of a right to rank *pari passu* with other creditors was void as against such creditors. Finally, the liquidator intimated that, on the satisfaction in full of the claims of all the company's other creditors, he would be prepared to reconsider the managing director's claim as a deferred claim.

The managing director applied to the court to reverse this decision of the liquidator and Bennett, J., held that he was entitled to the relief he claimed. "A balance sheet of a private company is not a public document, and there is no obligation to show it to any creditor. There is no proof that it was shown to any creditor, and I can see no grounds upon which on the facts of this case there is any reason for the application of the doctrine of estoppel. The case might have been very different if it had been proved that any creditor had either refrained from taking proceedings against the company to enforce a debt or given credit to the company after he had seen the balance sheet in question: but the form of the balance sheet is one for which the accountant and not [the managing director] must take the responsibility. However, no creditor has been cited as having so acted and upon the footing that in my judgment the onus of establishing a case of estoppel rests upon the liquidator, and upon the ground that the onus of proving that there is not a case of estoppel

does not rest upon," the managing director, the learned judge concluded in favour of the latter. The opening words of this passage are, I think, the most important. The balance sheet not being a public document it is impossible for the court to say that statements contained in it constitute representations on which persons have acted who have no right to see the balance sheet and who *primâ facie* have not seen it. Of course such persons might in fact have seen it, and the learned judge goes on to suggest that if evidence were adduced to show that they had done so and that they had acted on the strength of representations contained therein, then if their actions result in detriment to themselves they might plead an estoppel against the persons responsible for inducing their actions.

This leads me to a consideration of the second of the two cases to which I referred at the beginning of this article, where support for this last proposition is to be found in judgments in the Court of Appeal. This is the case of *John Shaw and Sons (Salford) Ltd.* v. *Shaw* [1935] 2 K.B. 113. Here again directors who had signed the company's balance sheet were held not to be bound as between themselves and the company by statements contained therein which were not wholly accurate, though as against any other persons who might have been misled by the inaccuracies it was pointed out that the directors might have incurred liabilities. The facts were these. The company was a private family company of which three brothers were directors. These brothers, in order to avoid taxation, had, unknown to each other, committed certain irregularities in connection with the company's affairs, and they were debtors of the company. Discovery of the truth led to recrimination and litigation, which was ultimately settled on terms which included the admission of the respective debts and an agreement by the company not to demand repayment for twenty years. The company's auditor was then instructed to ascertain the exact amounts of the debts and to draw a balance sheet accordingly. This he did, but in the balance sheet he made no reference to the fact that, under the terms of the settlement, the debts were not immediately repayable. In this respect, therefore, an inaccurate picture of the value of the company's assets was produced. The balance sheet was signed by the directors and passed by the company in general meeting. Subsequently further disputes arose and writs were issued on behalf of the company claiming immediate repayment of the debts on the ground that the balance sheet was an account stated between the company and the directors involving a fresh promise to pay distinct from the agreement under the terms of settlement of the previous disputes. Greer, L.J., in rejecting this contention, said this: "The balance sheet was not an account rendered to the appellants" [i.e., the directors] "by the company as creditors and accepted by the appellants as debtors. It was a statement by the company of the state of their assets and liabilities. As such a statement it was inaccurate, but though by signing it the directors who signed it and those who did not sign it but agreed to the presentation of the balance sheet to the shareholders vouched its accuracy, this did not make it a debtor and creditor statement between the company and the appellants . . . It was not a contract by the company to accept in place of the" [sums] "to which they were entitled in twenty years' time from the two appellants, the sums debited to them in the balance sheet. Nor was it a contract by the two appellants severally to pay immediately the sums debited to them in the balance sheet . . ." This is quite clear and calls for no comment. The lord justice then proceeds in these words: "It was only an inaccurate statement by the board of the assets of the company, which might have landed them in difficulties and liabilities to shareholders who had suffered damage by acting in the belief that the statements in the balance sheet were true." This is in accordance with the view of Bennett, J., which I have already quoted, and I can only respectfully say that it seems to be good law. In fact, in the case which the Court of Appeal was considering the company was a family concern, and the shareholders were probably all aware of the true position. They could not, therefore, have claimed that they had been misled by the inaccuracies in the balance sheet, though if a creditor had been shown the balance sheet and been misled by it into giving further credit to the company in the belief that the debts there shown were immediately payable, the directors would, it is submitted, have been estopped from alleging that these debts were not payable for twenty years.

A Conveyancer's Diary.

[CONTRIBUTED.]

Restrictive Covenants—I.

IN this and the following article I propose to give some account of the various recent decisions of the Court on the subject of restrictive covenants. For reasons of space it is, of course, necessary to impose some limit upon the ground to be covered. I have therefore not taken into account any decisions reported more than five years ago, that is to say, before the Vol. 1932, 1 Chancery. I have also omitted all questions of the construction of particular forms of words in restrictive covenants, and I have (with one exception) passed over the cases concerning landlord and tenant covenants.

Within the field of inquiry thus narrowed down there are two main groups of case. First, those dealing with the substantive law as to the enforceability of restrictive covenants affecting freeholds: this group I propose to deal with in the present article. And second, those concerning the procedural law laid down by s. 84 of the Law of Property Act, and the Rules made thereunder, which will be the subject-matter of the second article.

The decision of the Court of Appeal in *Re Union of London and Smith's Bank* [1933] Ch. 611, probably did not lay down any new law. But it is a decision of the greatest importance. For in it is stated, with the high authority of the Court of Appeal, the settled law on the branch of the subject with which it deals. This is something of very high interest when it occurs in connection with a branch of the law which is judge-made and comparatively modern, for such a branch of the law is necessarily in a fluid state as compared, for instance, with those aspects of equity which were in existence before the Chancellorship of Lord Eldon and were crystallised by him. It is therefore the more necessary that we should carefully mark it when each point of such a branch of the law reaches its final state.

Primarily, as everyone knows, the doctrine of restrictive covenants enables the assigns of a vendor to enforce in equity a covenant entered into by a purchaser against that purchaser himself or his assigns, where the vendor has on the sale retained land in the neighbourhood which is capable of being benefited by the covenant, and where the covenant is expressed in the instrument creating it to enure for the benefit of such land. Where these conditions are fulfilled, the benefit of the covenant is annexed to the land for whose benefit it is expressed to enure, and may be enforced in equity by the assign of the covenantee, even though on the assignment nothing was said about the covenant. The right being an equitable one, it is subject to the overriding rule applicable to all equities, namely, that it is not enforceable as against an assign of the covenantor who takes as a *bonâ fide* purchaser for value without actual or constructive notice of the existence of the covenant. In this connection it must, however, be observed that restrictive covenants created after 1925 are registrable as land charges, and the doctrine of notice must in their case be read subject to the limits imposed by s. 199 (1) (i) of the Law of Property Act.

The right to enforce restrictive covenants has been extended in the case of what are technically known as building schemes. The rules relating to building schemes are definitely laid down in the case of *Elliston* v. *Reacher* [1908] 2 Ch. 374, and are too well known to need elaboration here.

There remains, however, the class of case, which is by no means small, where there is no building scheme and where, on a sale a covenant is taken, the benefit of which is not expressly annexed to the land retained by the covenantee so as to run with it. This is the case covered by the decision in *Re Union of London and Smith's Bank*. It is not necessary here to enter into the facts of the case, which were very complicated, since they add nothing to the elucidation of the principles of law there laid down. Those principles are very aptly stated in the headnote in the Law Reports in the following words: "an assign of the covenantee's retained land cannot enforce the covenant against an assign (taking with notice) of the covenantor unless he can show (i) that the covenant was taken for the benefit of ascertainable land of the covenantee capable of being benefited by the covenant, and (ii) that he (the covenantee's assign) is an express assign of the benefit of the covenant."

In such a case, therefore, the plaintiff has to surmount a considerable number of fences, a fall at any one of which will be fatal to his success. He must first show that the covenant was taken for the benefit of ascertainable land of the covenantee. That this is no light task is shown by the fact that in an earlier case, cited with approval in the judgment of the Court of Appeal, Scrutton, L.J., referred to such land as "certain" land. The difficulties in this matter also, of course, grow greater the older the covenant is. He has then to show that the ascertainable land was capable of being benefited by the covenant. Thirdly, he must show that on every change of ownership of his land there was an express assignment to the purchaser of the benefit of the covenant. If such a chain of assignments has to be proved over a long period there is a very good chance that one of the links may not hold. It is extremely easy for the draftsman to overlook the existence of such covenants, so that the assignment is inadvertently omitted. In this connection it is further to be observed that the Court of Appeal also laid down that where the covenantee has once parted with the whole of the originally retained land he cannot effectually assign the benefit of the covenant. For, "to hold that he could do so would be to hold the covenant as having been obtained not only for the purpose of enabling the covenantee to dispose of his land to the best advantage, but also for the purpose of enabling him to dispose of the benefit of the covenant to the best advantage" (per Romer, L.J., at p. 632). Such reasoning would presumably apply to the assign of the covenantee as much as to the covenantee himself. The chain once broken cannot, therefore, be mended.

Re Union of London and Smith's Bank is by far the most important of the cases with which we are here concerned, and it will suffice to refer briefly to the others.

Ridley v. *Lee* [1935] Ch. 591, a decision of Luxmoore, J., dealt with an intended building scheme which the parties attempted to create at a date prior to 1926, but which failed originally to come into operation because the purported restrictive covenants were made between A of the one part and A, B and C of the other. The covenants were therefore void under the old law, as A was both covenantor and a covenantee. It was held that the building scheme remained a nullity in spite of the coming into force of s. 82 of the Law of Property Act, which enables a man to covenant validly with himself and one or more other persons, and which is expressed to apply to covenants whether created before or after the commencement of the Act.

Drake v. *Gray* [1936] Ch. 451, was a decision of the Court of Appeal affirming a decision of Luxmoore, J., and appears to have been concerned primarily with a question of construction, namely, whether on a partition certain covenants were or were not limited to enure for each and every part of the land partitioned.

Re Ecclesiastical Commissioners for England's Conveyance [1936] Ch. 430, another decision of Luxmoore, J., draws attention to s. 56 (1) of the Law of Property Act, which enacts, so far as here material, that "a person may take . . . the benefit of any . . . covenant or agreement over or respecting land or other property although he may not be named as a party to the conveyance or other instrument." This subsection re-enacts, with an extension to personalty, the provisions of s. 5 of the Real Property Act, 1845. By virtue of this enactment it is possible, entirely apart from the building scheme rules, for a vendor on a conveyance validly to reserve a covenant not only for the benefit of his retained land, but also for that of land formerly belonging to him in the neighbourhood, as was the position in this case. It may sometimes be useful to bear this rule in mind in drafting documents imposing restrictive covenants.

Landlord and Tenant Notebook.

Overcrowding: The Regulations.

The Housing Act, 1936, has consolidated the several statutes of the same name which were in force on the 31st July of that year, and s. 176 (1) provides for the prescribing by regulations of anything which the Act left to be prescribed, and of any notice, etc., required or authorised to be used under, or for the purposes of, the Act, S.R. & O., 1937, No. 80, has (as mentioned in "Current Topics," 81 Sol. J. 167) accordingly appeared: it deals mostly with the matter of overcrowding; and as rules and orders have a way of being almost as important as, if not more important than, the statutes themselves, a short review of some of the provisions may be useful. (For a discussion of the liabilities of landlords under the new overcrowding legislation in general, see 80 Sol. J. 849, 869).

The first regulation which calls for comment is No. 4, which prescribes the manner in which floor area is to be ascertained. What is now Sched. V subjects working-class dwelling-houses to two tests, one by reference to the number of rooms and the other by reference to the aggregate floor area of the rooms, in order to determine the permitted number of occupants of the house. At first sight it would look as if Parliament had forgotten the existence of a third dimension, but on further examination it will be seen that consideration has been paid to this aspect of the question in the now s. 62 (3), authorising the Minister of Health to prescribe the manner in which floor area is to be ascertained and to provide for the exclusion from computation, or for the bringing into computation at a reduced figure, of floor space in any part of a room which is of less than a specified height not exceeding eight feet. Regulation 4 now ordains that any part of the floor space over which the vertical height of a room is, by reason of a sloping roof or ceiling, reduced to less than five feet shall be excluded from the computation of the floor area of the room. The "reduced figure" alternative has thus been rejected: on the other hand, by making the limit five feet, the Minister has not gone as far as he might have gone. A criticism which might be offered of this Regulation is that it cuts down the scope of s. 62 (3) by making a sloping roof or ceiling a condition precedent to exclusion from computation; there are rooms the ceilings of which look like inverted staircases.

The same Regulation provides for the inclusion in computation of floor space formed by bay window extensions and of areas covered by fixed cupboards or projecting chimney breasts. Presumably "built-in" cupboards are not within the meaning of the expression "fixed cupboards." Lastly,

Regulation 4 says that all these measurements are to be made at floor level and to extend to the back of projecting skirtings.

In drafting the above regulation, the Minister was addressing, in the main, landlords and local authorities and their surveyors. The preparation under s. 62 (1) of a summary of three of the sections dealing with overcrowding, for the purposes of inclusion in rent books and similar documents, is a more delicate task. On the whole, the steering of a course which would avoid the Scylla of obscurity and the Charybdis of inaccuracy has been well carried out.

The sections concerned are Nos. 58, 59 and 61, which define overcrowding, constitute it an offence, and provide for licences in exceptional circumstances. The summary, set out in Pt. I of the schedule to the Regulations, commences with a statement of occupiers' criminal liability for overcrowding. "An occupier who causes or permits his dwelling to be overcrowded" is the subject of the main clause of one sentence, and no doubt in most cases there will be little difficulty in deciding who is occupier and what is his dwelling.

But next, the tenant is informed: "Any part of a house which is occupied by a separate family is a 'dwelling.'" Is this accurate, and what does it summarise? It is accurate as far as it goes, that is, no harm will be done as long as no owner of a rent book falsely infers that a family is necessary to constitute a dwelling-house. For if a couple of working girls take a bed-sitting room that room would, according to the Act itself, constitute a dwelling-house, whether they were related to each other or not. The definition of "dwelling-house" is to be found in s. 68, not one of the sections to be summarised; but the expression "dwelling" does not occur anywhere. Probably what has happened is that the draftsman, aware that many dwelling-houses, in the ordinary sense of the word, have been divided and adapted so as to hold many tenants, has sought to bring home to such tenants that each is an occupier for the purposes of the overcrowding legislation. It is a case in which the use of the correct legal expression might plausibly mislead, but whether a regulation which defines what it was merely to summarise, or, in the alternative, paraphrases instead of summarises, is *intra vires*, might be questioned. The word "family," it may also be observed, is not defined, either in the Act (which uses it only when dealing with exemption in the case of existing overcrowding) or in the Regulations. It appears in the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, s. 12 (1) (*g*), and the omission to define it gave rise to some litigation; in *Salter* v. *Lask* [1925] 1 K.B. 584, a husband, and in *Price* v. *Gould* (1930), 46 T.L.R. 411, a brother and a sister, were held to be members of the families of (deceased) statutory tenants.

Having explained the position of "occupier" and "dwelling," the summary goes on to inform its reader what constitutes overcrowding: "a dwelling is overcrowded if the number of persons sleeping in it is more than the 'permitted number,' or is such that two or more of those persons, being ten years old or older, of opposite sexes (not being persons living together as husband and wife), must sleep in the same room." This is an unexceptionable summary of s. 58 (1), and the form goes on to provide for a statement of the "permitted number" for the particular dwelling (which the landlord should ascertain from the local authority, under s. 62 (2) and (7)). The tenant-occupier is then told that a child under ten counts as half a person, a child less than a year old not at all (see s. 58 (2)).

When it comes to the special provisions as to existing overcrowding (s. 59 (3) and (4)) the reader is referred to the local authority, whose address has to be filled in by the landlord.

The second part of the schedule contains forms of statutory notices, etc. Some criticism may perhaps be expected of Form B, which prescribes a notice requiring a statement of persons sleeping in a house. The Act casts upon local authorities the burden of enforcement (s. 66 (1)) and provides for their demanding from occupiers of working-class houses a statement of the number of persons sleeping in the house (s. 66 (3)). The sub-section does not say that the demand is to be limited to one particular period of twenty-four hours, but this is what the form provides. If the local authority should happen to select a particular day and night when one of the usual inmates of an overcrowded dwelling was away, the object of the Act will not be promoted.

The "sleeping" test is, of course, a somewhat rough and ready method of determining the question of overcrowding, but it is used by the Act itself; it can be said to accord with the definition of "residence" given by Blackburn, J., in the *Oldham Case* (1869), O'M. & H. Election Petitions 151, namely, where the alleged resident habitually sleeps; and at all events it is difficult to think of any better criterion. Chronic insomnia, however, would hardly afford a defence to a prosecution, nor would a plea that someone had lain awake reading S.R. & O., 1937, No. 80, be likely to succeed.

Of particular interest to landlords is Form C, the form of notice, given under s. 59 (5) (*a*), that a house is overcrowded. It correctly reminds him of his duty to take such steps "as it is reasonably open for him to take" to abate the overcrowding "including, if necessary, proceedings for possession." Form D gives the corresponding form of notice to the occupier, pointing out that failure to comply will entitle the authority to sue for vacant possession to be given to the landlord. The form provides for the occupier to be addressed by name, which may in practice prove a difficulty, though the name would have to be ascertained if proceedings became necessary.

Our County Court Letter.

THE REPAIR OF TOMBSTONES.

In *Ball* v. *Fortescue and Others*, recently heard at Birmingham County Court, the claim was for £25 7s. as a contribution to the cost of improving a granite memorial to the parties' deceased mother. The plaintiff's case was that she and the defendants had mutually agreed, on the death of their father, to add his name to their mother's gravestone, and to improve the memorial. The work was done at a cost of £33 16s., and the parties should have paid a quarter each. The plaintiff, however, had paid the whole amount, and therefore claimed repayment of the other three shares. The defendants contended that they had not authorised the above expenditure, as the total cost should have been about £6. The father's estate was between £3,000 and £4,000, and there was some mention of an estimate for £27 10s. only. His Honour Judge Ruegg, K.C., held that the plaintiff should have consulted the family before giving the order at the higher figure. She was only entitled to recover three-quarters of £27 10s., and judgment was given accordingly, with costs.

THE CONTRACTS OF ESTATE AGENTS.

In *Saturley & Garner* v. *Down*, recently heard at Weston-super-Mare County Court, the claim was for £3 18s. as commission for letting a house. The plaintiffs were instructed by a previous owner in 1935, but no tenant would pay the rent then asked, and the house was later bought by Moseley Bros. Ltd., who also instructed the plaintiffs to find a tenant. They found a Mr. Parkman, who offered £50 per annum, but Moseley Bros. Ltd. refused the offer, as they had already sold the property to the defendant. The rent asked by Moseley Bros. Ltd. had been £52, and the defendant required £55, but finally let the house to Mr. Parkman for £52 a year. The plaintiffs' case was that the defendant had promised to pay their commission, but the alleged promise was denied, and liability was disputed on the ground that the defendant had arranged with

Moseley Bros. Ltd. that they should provide a tenant, and pay the commission out of the purchase price, which arrangement was notified to the plaintiffs. His Honour Deputy-Judge Wilshire observed that the witnesses on both sides had been honest and straightforward, and, in the absence of documents, he accepted the evidence for the plaintiffs. Judgment was given for the amount claimed with costs.

In a recent case at Nottingham County Court (*Scott* v. *George Marriott & Sons; Bird, third party*) the claim was for damages for failure to carry out a contract to let No. 120, Queen's Road, Beeston. The defendants contended that they were authorised to let the property to the plaintiff, but this was denied by the third party, who was the trustee of the estate comprising the above property. His case was that he had not authorised the defendants to let the property without his consent, and he himself had found a better tenant. His Honour Judge Hildyard, K.C., held that the defendants were entitled to an indemnity from the third party. Judgment was given for the plaintiff for £100 and costs against the defendants, and for them against the third party.

THE DEFINITION OF A SOLE AGENCY.

In *Bock* v. *Parkers*, recently heard at Westminster County Court, the claim was for £25 15s. 7d., as the price of goods sold. The defendants' case was that the plaintiffs had given them a sole agency agreement at Nottingham for a year, in consideration of which an order was given for beauty preparations to the amount claimed. A rival firm was afterwards found to be selling the plaintiffs' preparations, and, as the defendants considered this was a breach of their agreement, they returned the goods. The defendants contended that they had the exclusive right to sell the plaintiffs' preparations in Nottingham. His Honour Judge Dumas held that the sole agency agreement meant that the plaintiffs would not sell their products to anyone else in Nottingham for twelve months. It would be possible, however, for anyone in Nottingham to buy the plaintiffs' preparations in Derby, and retail them in Nottingham, without causing a breach of the plaintiffs' agreement. The latter had not been broken, and judgment was given for the plaintiffs, with costs.

Reviews.

The Municipal Year Book, 1937. Edited by James Forbes. London: The Municipal Journal, Ltd. 30s. net.

The 1937 edition of this valuable work of reference is the fortieth of the series and contains the record number of 1,676 pages. In addition to a survey of the outstanding developments in local government during the past year, there is a comprehensive review of the latest legislation and a digest of the more important cases affecting local government heard in 1936. The book deals with every important phase of civic administration and contains a directory of National Departments of State, municipal corporations, county councils, London government, urban and rural district councils, local government in Scotland and Ireland and joint authorities in Great Britain.

Books Received.

How to Become a Solicitor. By Gibson & Weldon, Law Tutors. Fifth Edition. 1937. Demy 8vo. pp. 106. London: The "Law Notes" Publishing Offices. 2s. 6d. net.

The Journal of Comparative Legislation and International Law. Third Series—Vol. XIX, Part I. February, 1937. Edited by F. M. Goadby, D.C.L. London: Society of Comparative Legislation. Price 6s.

Tables of Conveyancing Scale Charges including Land Registry Scales. By T. O. Carr. 1937. Demy 8vo. pp. iii and 84. London: Sweet & Maxwell, Ltd. 6s. net.

To-day and Yesterday.

Legal Calendar.

1 March.—In the records of Lincoln's Inn for 1465 we read that "Kenelm Digas was put out of the Society because . . . he violently drew his dagger in the Hall of the said Inn, upon Denys one of the Fellows of the Inn." Afterwards, on the 1st of March, at the instance of several Fellows, Digas was readmitted "on condition that he should not carry a dagger within the Inn or the precinct thereof for one whole year because he had offended with his dagger in form aforesaid and further that he paid a fine of 40s. for the offence." The fine was afterwards pardoned.

2 March.—On the 2nd March, 1785, "The Right Honourable Earl Mansfield completed his eightieth year and presided on the Bench at Guildhall, at nine o'clock, in perfect health and spirits. As soon as his lordship entered the Court, Thomas Gorman, Esq., a gentleman as well known for his integrity as a merchant as for his legal and constitutional knowledge as a juror, presented his lordship with his annual offering of a bouquet, which the Chief received with his usual politeness and affability."

3 March.—On the 3rd March, 1752, Mary Blandy was tried in the Divinity School at Oxford for the murder of her father.

4 March.—On the 4th March, 1856, James Thurgood, a young poacher, was tried before Mr. Baron Alderson at the Chelmsford Assizes for the murder of a gamekeeper. On the fatal night he had been one of several men who went out to shoot in Sir John Tyrell's wood. Before starting he had been heard to say: "I shall not be taken this night by anyone. I shall shoot anyone before I will be taken this night." The party were in fact surprised by three gamekeepers, the foremost of whom was shot dead as he went forward. Several circumstances pointed to the prisoner as the killer, and he was convicted.

5 March.—On the 5th March, 1862, Patrick Devereux, a young sailor of nineteen, was found guilty at the Old Bailey of the murder of a rascally lodging-house keeper in the Ratcliffe Highway, who had cheated him of his money and his chest, and whom in desperation he had stabbed to death. The circumstances were so pitiable and the boy's plea for mercy was so touching that Mr. Baron Martin wept in passing sentence and had to pause several times to overcome his emotion. Almost everyone in court was sobbing as the prisoner was carried fainting from the dock. A reprieve was subsequently granted.

6 March.—On the 6th March, 1815, riotous London mobs protesting against the Corn Bill attacked the houses of several prominent men. In Bedford Square, they assailed the home of the Lord Chancellor, Lord Eldon, tore up the railings, forced their way in and smashed the windows and the furniture before the military arrived. The Lord Chief Justice, Lord Ellenborough, fared better. When the mob assailed his house, he intrepidly presented himself at the door inquiring the cause of the outrage. They shouted: "No Corn Bill! No Corn Bill!" We are told that "his lordship addressed them in a few words. The effect was that the mob instantly cheered the noble lord and departed."

7 March.—When Samuel Berry was tried at the Oxford Assizes on the 7th March, 1829, for killing and stealing a pig, James West, an accomplice, gave evidence against him. West admitted that he himself had struck the fatal blow with a pick axe, but said he did not wish to hurt it. Mr. Justice Park: "What did you strike it for? That the pig should cry out?" West: "Yes, my lord." Mr. Justice Park: "What! That it should cry out and wake the owner and make him get up and prevent you from taking it?" West: "Yes, my lord." Such evidence did not make a good

impression on the judge and, when the jury found Berry guilty, he asked them to reconsider their verdict "on account of the impossibility of believing a word that has been uttered by that infamous witness West." There was an acquittal.

THE WEEK'S PERSONALITY.

Cold blooded parricide or dupe of her disreputable little Scottish lover Captain Cranstoun, no one can ever know with certainty which Mary Blandy was. From her childhood, she was certainly lively, intelligent and charming, but beauty was not hers. One who saw her for the first time when she stood in court to answer the charge of poisoning her father, wrote that she "was of a middle stature, rather plump than slender, of no delicate shape, of a swarthy complexion deeply pitted with the small-pox, had a large straight nose, full mouth, flattish cheeks, dark hair and eye-brows, fine sprightly black eyes, and appeared, as really she was, to be about thirty-five years of age. Her dress was chosen with great propriety, it was plain but neat . . . She appeared sedate and composed, without levity or dejection during her long trial which lasted twelve hours." So appeared the woman whom counsel for the prosecution described as "a monster of cruelty." Her father, the town clerk of Henley, had been inconsiderate enough to discountenance the suit of her undesirable lover, and his death by poison had been accompanied by circumstances which amply justified her conviction for murder, though she steadfastly denied her guilt in the dock and on the scaffold. No one will ever know her secret.

MURDER OF A GHOST.

From Belgrade comes a report of how a ghost story recently led to a murder trial. In the village of Lyubiski, a peasant bet his friends that he was bold enough to visit the graveyard alone at midnight. He went, and from behind a tombstone there arose an apparition which so terrified him that he drew his pistol and shot wildly at it. Down fell the ghost and he found that he had killed a practical joking friend. Tried for murder, he was acquitted by the court, but sent to prison for two weeks for disturbing the peace of the cemetery. The case recalls a very similar trial at the Old Bailey, at the opening of the last century. Rural Hammersmith had been terrorised by a supposed apparition, till a bold villager, named Francis Smith, determined to lay the ghost with a gun, posting himself in Black Lion Lane. Sure enough, there appeared a figure in white which made no answer when challenged. Smith fired and found too late that he had killed a bricklayer, dressed in the then customary white habiliments of his calling. At the Old Bailey, he was found guilty of murder after a sensational trial and condemned to death, but Lord Chief Baron Macdonald obtained the commutation of his sentence to one year's imprisonment.

ABOLISHING THE LEGAL PROFESSION.

Life in Italy is said to have become so difficult for the lawyers that it is reported that a legal journal there has proposed the abolition of the profession. The suggestion irresistibly recalls a story of Peter the Great's visit to England. Passing through Westminster Hall in term time, he saw multitudes of people swarming to the three superior courts of judicature, and asked his guide who all those busy people were and what they were about. "They are lawyers, sir," he was told, "Lawyers?" he exclaimed, with every sign of astonishment, "why I have but two in my whole dominion and I design to hang one of them the moment I get home." In Italy, it seems, one of the reasons for the decline in litigation is the incomprehensible dilatoriness of procedure. The Tsar Peter is said to have had a single cure for that, too, decreeing that no law suit should exceed eleven days, after which it was to terminate automatically.

Notes of Cases.

Judicial Committee of the Privy Council.

Mangal Singh *v.* The King-Emperor.

Lord Thankerton, Sir Shadi Lal, and Sir George Rankin. 18th January, 1937.

INDIA—LAHORE—CRIMINAL LAW—PETITION FOR LEAVE TO APPEAL *in Forma Pauperis*—COUNSEL'S AND SOLICITORS' FEES—JUDICIAL COMMITTEE RULES (S.R. & O. 1925), r. 81.

Petition.

On the 27th July, 1936, the petitioner, Mangal Singh, was granted special leave to appeal to His Majesty in Council against the judgment of the High Court at Lahore, dated the 27th April, 1936, upholding his conviction of murder and sentence to death by the Court of Sessions Judge of Montgomery on the 13th February, 1936. The petitioner, being in custody in the Central Jail, Montgomery, stated by his present petition that he was not worth £25 in the world besides his wearing apparel. He asked leave to prosecute the appeal *in forma pauperis*, praying that the fees normally payable on appeal and on this petition should be remitted, and that the India Office should provide for the expenses of binding the record and printing the case, and for the fees payable to counsel and solicitors for prosecuting the appeal. It was stated by counsel for the respondent that, the petitioner being admittedly a pauper, the India Office were prepared to pay for the printing and binding of the record and the case, but not for his counsel's and solicitors' fees. It was submitted for the petitioner that the matter, being a capital case, was one of life and death, and pointed out that in Great Britain the Court of Criminal Appeal allowed legal aid to prisoners.

LORD THANKERTON said that r. 81 of the Judicial Committee Rules, 1925, provided, *inter alia*, that, where the Committee directed costs to be taxed on the pauper scale, the taxing officer should not allow any fees of counsel, and should only award to the agents out-of-pocket expenses and a reasonable allowance to cover office expenses. Counsel for the petitioner seemed to be flying straight in the teeth of that rule. The proposal was a novel, or, at any rate, a most unusual one, and in his (his lordship's) opinion it was not competent. The petitioner was asking for indulgence to appeal as a pauper, and he wished to employ counsel at somebody else's expense. In Great Britain there was statutory provision for the legal aid granted by the Court of Criminal Appeal. The petitioner was asking for an order which the Board could not possibly pronounce. The petition would be granted, with the exception of the point with regard to solicitors' and counsel's fees.

COUNSEL: *M. H. Rashid*, for the petitioner; *W. Wallach*, for the respondent.

SOLICITORS: *Nehra & Co.; The Solicitor, India Office.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

The Judges *v.* Attorney-General for Saskatchewan.

Lord Blanesburgh, Lord Atkin, Lord Maugham, Lord Roche and Sir Sidney Rowlatt. 26th February, 1937.

CANADA—SASKATCHEWAN—LIABILITY OF PROVINCIAL JUDGES TO INCOME TAX IMPOSED BY PROVINCIAL LEGISLATURE—INCOME TAX ACT, 1932, SASKATCHEWAN—BRITISH NORTH AMERICA ACT, 1867 (30 & 31 Vict., c. 3), ss. 96, 99, 100.

Appeal from a decision of the Court of Appeal for Saskatchewan, dated the 6th June, 1936, answering in the affirmative the following questions referred to the court by the Lieutenant-Governor in Council: "(1) Are judges (*a*) of the Court of Appeal, (*b*) of the Court of King's Bench, (*c*) of the District Courts, of the Province of Saskatchewan, appointed by his Excellency the Governor-General, pursuant to s. 96 of the British North America Act, 1867, subject to

the taxation authorised by the Income Tax Act, 1932, of Saskatchewan, being otherwise persons subject to the provisions of the said Act? (2) If the said Judges or any of them are subject to the said taxation, then has the Legislature of Saskatchewan legislative authority to include in income, for the purposes of the Income Tax Act, the salary and allowances of the said Judges or any of them paid pursuant to the provisions of the Judges Act, being c. 105 of the Revised Statutes of Canada, 1927?"

SIR SIDNEY ROWLATT, giving the judgment of the Board, said that the reference in question placed the Court of Appeal in an embarrassing position, all its members being personally interested in the point in controversy. They took the view, quite rightly, that they were *ex necessitate* bound to act, and they came unanimously to a conclusion adverse to the contention put before them on behalf of their order. His lordship referred to ss. 92, 96, 99 and 100 of the British North America Act, 1867; the Judges Act, R.S.C., 1927, c. 105; and the Income Tax Act, 1932, of Saskatchewan. It was pointed out in the court below that the judges, being persons residing in Saskatchewan, and in receipt of salaries out of the revenues of the Dominion, were, *primâ facie*, subject to taxation by the Province in respect of their incomes just like other residents, and that there was nothing in ss. 96, 99 and 100 of the British North America Act, 1867, to limit the powers of the Provinces to tax their salaries. Section 91 (8) of the British North America Act defined the powers of the Parliament of Canada with respect to the salaries of civil servants, and the court below had before it two decisions of the Supreme Court of Canada, namely, *Abbott* v. *St. John* (40 S.C.R. 597) and *Attorney-General for Manitoba* v. *Forbes* [1934] 3 W.W.R. 681, in which a Provincial income tax on such salaries was upheld. The latter of those two cases was appealed to his Majesty in Council. The decision of the Supreme Court was affirmed, and the argument under discussion was not now open. That, in effect, disposed of the present case also unless judicial emoluments were in a class apart protected by some paramount principle. There was no foundation in the realities of the situation for any such conception. Neither the independence nor any other attribute of the Judiciary could be affected by a general income tax which charged their official incomes on the same footing as the incomes of other citizens. Their Lordships would therefore humbly advise His Majesty that the appeal be dismissed. Pursuant to an arrangement between the parties, there would be no order as to costs.

COUNSEL: *Frank Gahan*, for the appellants; *Wilfrid Barton*, for the respondent; *Theobald Mathew* held a watching brief for the Attorney-General for Canada.

SOLICITORS: *Blake and Redden; J. M. Isaacs; Charles Russell and Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

In re Blake; Berry *v.* Green and Others.

Slesser and Scott, L.JJ., and Farwell, J.

28th and 29th January, and 5th February, 1937.

WILL—ANNUITIES—DIRECTION TO ACCUMULATE DURING LIFE OF ANNUITANTS—PERIOD OF ACCUMULATION—POSSIBILITY OF EXCEEDING PERMITTED PERIOD—RESIDUARY GIFT TO CHARITY—CHARITY'S RIGHT TO STOP ACCUMULATIONS—LAW OF PROPERTY ACT, 1925 (15 Geo. 5, c. 20), s. 164.

Appeal from a decision of Bennett, J.

A testator, who died in 1925, bequeathed his property to trustees to pay out of the income several annuities, some to personal annuitants and some to religious institutions. The latter were to cease on the death of the last personal annuitant. So long as any of the annuitants were alive, the balance of the income and the income resulting therefrom was to be accumulated and invested, but any deficiency in one year might be made up from the surplus income of any other year. On the death of the last of the personal annuitants, legacies were directed to be given to certain charitable objects and, subject thereto, the whole of the testator's property was to go to the Congregational Union of England and Wales, to be invested as capital. One half of the income thereof was to be held in trust to pay it to the Devon Congregational Union. Both these charities were unincorporated bodies. The legacies and annuities in the will were given free of death duties. After the death of the testator, certain annuitants died, and the subsisting annuities now amounted to £2,275, while the surplus income amounted to £12,000. The Congregational Union of England and Wales now asked that the trust for accumulation should be determined and that either the surplus income in each year should be paid to them or that proper provision should be made for the payment of legacies and annuities, and that, subject thereto, the residuary estate should be transferred to them. Bennett, J., held (1) that the gift to the Union included the accumulation of income and the income resulting therefrom, but (2) that the Union were not entitled to determine the accumulations and that if the annuities continued payable longer than twenty-one years from the testator's death (when the accumulations would cease by virtue of the Law of Property Act, 1925, s. 164) the surplus income of the residuary estate and of the accumulations from that date until the cesser of the last annuity would be undisposed of and would devolve as on an intestacy. The Union appealed on the second point.

FARWELL, J., delivering the court's judgment dismissing the appeal, said that *primâ facie* the residue was given subject to the annuities which were charged on the whole of it. This was so here, for the direction that any deficiency in income in one year might be made up from the surplus income of any other year was not confined to the income of any future year. Further, the learned judge was right in holding that if any annuitant survived the period of twenty-one years, the surplus income would pass as on an intestacy. Though, therefore, the only persons presently interested in the estate were the annuitants, the pecuniary legatees and the residuary legatees, in certain circumstances the heir at law and the next of kin might become entitled to the surplus income for a limited period. Where a person, or several persons collectively, were given property absolutely, but the date of enjoyment was postponed, the direction postponing payment was rendered inoperative if those persons all consented, being *sui juris* (*Saunders* v. *Vautier*, 4 Beav. 115), but this rule did not operate unless all the persons who might have an interest in the subject-matter were *sui juris* and consented, and, unless those conditions were fulfilled, the ultimate beneficiaries had no legal right to immediate enjoyment and the conditions annexed to the gift must be complied with (*Wharton* v. *Masterman* [1895] A.C. 186). But, in some circumstances, the Court of Chancery in the administration of an estate or the execution of a trust would allow the ultimate beneficiaries to have immediate enjoyment of the property, though other persons having an interest in it objected. Thus, where the residuary estate was given absolutely to a person *sui juris*, but charged with annuities, the court might, if it thought fit, give the residuary legatee immediate possession of the residue (*Harbin* v. *Masterman* [1896] 1 Ch. 351, at p. 361). The court, however, would not make such an order unless it was satisfied that the interests of the persons concerned were fully protected. In such a case the persons seeking immediate enjoyment had no legal right. Here, apart from the question of the next of kin, the annuitants objected. The effect of such an order would be to prejudice and possibly defeat the interests of persons taking under an intestacy. This could only be

prevented by refusing the order sought. His lordship referred to *In re Deloitte* [1926] Ch. 56, and said that in this case there was the further difficulty that the court could not vary the trusts on which the residue was given, treating as income that which by the trust was to be capital. The order sought would have that effect, and this alone was sufficient to disentitle the Union.

COUNSEL: *Archer*, K.C., and *W. M. Hunt*; *A. P. Vanneck*; *Morton*, K.C., and *A. J. Belsham*; *C. L. Fawell*; *Harman*, K.C., and *A. C. Nesbitt*; *Andrewes Uthwatt*.

SOLICITORS: *Shepheards, Walters & Bingley*; *Church, Rendell, Bird & Co.*, agents for *Woollcombe, Watts & Scrivener*, of Newton Abbot; *White & Leonard and Nicholls & Co.*, agents for *W. Rackwood Cocks*, of Exeter; *H. W. Guthrie & Co.*; *Treasury Solicitor*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Hope *v.* Great Western Railway Co.

Lord Wright, M.R., Slesser, Romer, Greene and Scott, L.JJ.
8th February, 1937.

PRACTICE—APPLICATION FOR TRIAL BY JURY—DISCRETION—ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) ACT, 1933 (23 & 24 Geo. 5, c. 36), s. 6.

Appeal from a decision of Lewis, J.

The plaintiff brought an action for damages in respect of personal injuries sustained at a railway station of the defendants from its alleged defective condition and by the alleged negligence of their servants. The defendants denied the alleged negligence and said that the injuries were caused solely or contributed to by the plaintiff's own negligence. The plaintiff was an infant and the injuries consisted of the loss of a leg. On the summons for directions the Master ordered trial with a judge and jury, and Lewis, J., in Chambers, affirmed the order.

LORD WRIGHT, M.R., dismissing the defendants' appeal, said that it had been contended that under s. 6 of the Law Reform (Miscellaneous Provisions) Act, 1935, the party applying for a jury had to show some special cause why a jury should be ordered, and that here the discretion had been wrongly exercised because the judge and the Master had not proceeded on that basis. But the contention was not well founded. The section gave an untrammelled discretion.

SLESSER, ROMER, GREENE and SCOTT, L.JJ., agreed.

COUNSEL: *H. N. Saunders*; *Willes*.

SOLICITORS: *A. G. Hubbard*; *Ward, Bowie & Co.*, agents for *Duggan & Elton*, Birmingham.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Millensted *v.* Grosvenor House (Park Lane) Ltd.

Slesser and Scott, L.JJ., and Farwell, J.
5th and 11th February, 1937.

PRACTICE—MONEY PAID INTO COURT—TRIAL WITHOUT JURY—JUDGMENT GIVEN ORALLY—PAYMENT IN COMMUNICATED TO JUDGE—SUBSEQUENT ALTERATION OF AMOUNT OF DAMAGES—ORDER SO DRAWN UP—POWER—R.S.C., Ord. XXII, r. 6.

Appeal from a decision of Hilbery, J.

In an action for damages in respect of personal injuries sustained through negligence, the trial was without a jury under the New Procedure Rules. Before the hearing, the defendants paid £20 into court. Hilbery, J., delivered an oral judgment in which he awarded the plaintiff £50 damages. On an application by the defendants that costs should be on the county court scale, the learned judge pointed out that the sum awarded carried costs on the High Court scale, but expressed the opinion that the action should have been brought in the county court, adding that he would have liked to limit the costs to county court costs. Afterwards the judge was informed of the payment in, and on the plaintiff's application directed it to be paid out to her, judgment for £50 with costs being ordered. He refused, however, to certify for High Court costs, but ordered such costs as would have been allowed if the case had been brought in the county court. He said: "I think I have stretched the matter in arriving at the sum of £50." Next day, on a further application, he said that he had seriously considered the case and thought the £50 excessive. Accordingly, by formal judgment dated and entered that day he ordered that the plaintiff should recover £35 damages with costs on the county court scale.

SLESSER, L.J., dismissing the plaintiff's appeal, said that a judge might change the terms of his judgment at any time before it was perfected and entered. (*In re St. Nazaire Co.*, 12 Ch. D. 88, and *In re Suffield & Watts*, 20 Q.B.D. 693). If payment in were mentioned to a judge before he delivered judgment this would not of itself compel him to refuse to continue to hear the case. In this connection, R.S.C., Ord. XXII, r. 6, was directory and not compulsory, and when such a matter was mentioned to him or to the jury, the judge, if he considered that it could not be reasonably calculated to cause a miscarriage of justice, would in his discretion be entitled to continue the case. The argument that the oral judgment was final in cases where the payment in had been stated to the judge was contrary to the nature of a judgment.

SCOTT, L.J., and FARWELL, J., agreed.

COUNSEL: *Pritt*, K.C., and *Samuel Lincoln*; *Fearnley-Whittingstall*.

SOLICITORS: *Turner, Osborn & Chatterton*; *William Easton & Sons*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

R. *v.* Salford Assessment Committee.

Slesser and Greene, L.JJ., and Luxmoore, J.
1st March, 1937.

RATING—PROPOSAL TO AMEND VALUATION LIST—OPPOSED BY RATING AUTHORITY—EMPLOYEE IN TOWN CLERK'S DEPARTMENT APPOINTED CLERK TO ASSESSMENT COMMITTEE—VALUATION LIST SIGNED BY TOWN CLERK AS CLERK TO RATING AUTHORITY—VALIDITY OF APPOINTMENT—BIAS SUGGESTED—RATING AND VALUATION ACT, 1925 (15 & 16 Geo. 5, c. 90), Sched. I, r. 12; Sched. IV, Pt. III, r. 4.—LOCAL GOVERNMENT ACT, 1929 (19 & 20 Geo. 5, c. 17), s. 15 (1).

Appeal from the King's Bench Division (80 SOL. J. 614).

The applicant obtained a rule *nisi* calling on the Salford Assessment Committee to show cause why a writ of prohibition should not issue to prevent them from acting on a resolution whereby they appointed as their acting clerk one Brown, an officer employed in the town clerk's department of the Salford City Council (the rating authority) as chief committee clerk and elections officer. As committee clerk he attended the meetings of the rating committee, which prepared the valuation lists, but took no part in their decisions, merely recording the proceedings. The applicant, the owner of a Salford billiards saloon, had proposed an amendment to the valuation list signed by the town clerk as clerk to the rating authority, which had then given him notice of objection. On the matter coming before the assessment committee, objection had been taken on behalf of the applicant to the presence of Brown. The grounds for the rule *nisi* were (1) that the resolution was *ultra vires* and contrary to Sched. I, r. 12, and Sched. IV, Pt. III, r. 4, of the Rating and Valuation Act, 1925, (2) that Brown was so related to the rating authority as to be unfit to occupy the position of clerk to the assessment committee, (3) that it might reasonably be expected that he would have a bias and justice would not appear to be done if he acted as clerk to the assessment committee. The Divisional Court discharged the rule, holding that Brown's appointment could not be objected to.

SLESSER, L.J., allowing the applicant's appeal, said that the assessment committee performed judicial or quasi-judicial functions, and the general principles affecting the possibility of bias should be applied. It was necessary not only that justice should be done, but that it should manifestly appear to be done. Here the complaint was that Brown was not a person who should advise the body before whom his employers, the rating authority, were litigants, since being present to advise the assessment committee on procedure and possibly other legal problems, though he took no part in their decisions, he had already received, from hearing with the attention necessitated by his duties as clerk taking the minutes of the rating committee, information (including perhaps the opinions of valuers and of counsel or solicitors) from which he could hardly divorce himself when he advised the assessment committee. The principles in *Reg.* v. *Milledge*, 4 Q.B.D. 332, *Reg.* v. *Brackenridge*, 48 J.P. 293, *Rex* v. *Sussex Justices* [1924] 1 K.B. 256, and *Rex* v. *Essex Justices* [1937] 2 K.B. 475, applied. The applicant might suppose that justice would not be done by the assessment committee when its adviser knew his opponents' preparation for the proceedings. Brown was much in the position of a solicitor's clerk who took no part in the consultations before trial, but attentively heard all, so that if he were subsequently called on to advise the justices in those proceedings, there was little doubt what would be the result of a subsequent impeachment of the trial. His lordship referred to *Middlesex County Valuation Committee* v. *West Middlesex Assessment Committee*, *supra*, p. 157, and added that he was dealing simply with the facts of this particular case, and the mere duplication of offices in the rating and the assessment committees was no ground in itself for granting the rule. But here Brown, who knew the transactions of the rating committee, advised the assessment committee of the same area, and it could not be held that here justice manifestly and undoubtedly appeared to be done.

GREENE, L.J., dissented.

LUXMOORE, J., agreed.

COUNSEL: *M. Rowe; Simes.*

SOLICITORS: *Peacock & Goddard*, agents for *Percy H. Barker & Co.*, of Manchester; *Gregory, Rowcliffe & Co.*, agents for *Brett & Co.*, of Manchester.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Cahill *v.* London Co-operative Society Ltd.

Luxmoore, J. 25th and 26th January, 1937.

CO-OPERATIVE SOCIETIES—FUNDS—GRANTS FOR POLITICAL OBJECTS — WHETHER *Ultra Vires* — INDUSTRIAL AND PROVIDENT SOCIETIES ACT, 1893 (56 & 57 Vict., c. 39), s. 10.

The defendant society was registered in 1920. It now had a membership of over 500,000 persons and a share capital of over £6,000,000. The objects defined by r. 2 of its rules were (*inter alia*) to carry on the business of storekeepers, general dealers and universal providers, in all ways to further the establishment of the co-operative commonwealth and to do all things necessary for carrying out the objects stated. Rule 29, dealing with the division of the profits provided that 5 per cent. of the net profits should be allocated in equal shares to educational and political objects. The plaintiff, who was a member, now sought a declaration that the defendants were not entitled to allocate any of their profits to a political fund or to political propaganda or to conducting local or parliamentary elections, contending that any such allocation was *ultra vires*.

LUXMOORE, J., in giving judgment, referred to s. 10 (1) of the Industrial and Provident Societies Act, 1893, and s. 12 (7) of the original Act of 1876. He considered the effect of *Warburton* v. *Huddersfield Industrial Society* [1892] 1 Q.B. 817, at pp. 819 and 821, and said that that case was decided in March, 1892, and the new Act was passed in September, 1893. His lordship referred to s. 4 and said that s. 10 (6) of the new Act replaced s. 12 (7) of the old Act. The allocation of profits to educational and political purposes was valid and was not *ultra vires* the Act of 1893 (see *Lafferty* v. *Barrhead Co-operative Society* (1919), 1 Sc. L.T. 257). The action failed.

COUNSEL: *Roxburgh*, K.C., *Danckwerts* and *Reginald Knight*. (The plaintiff appeared in person.)

SOLICITOR: *T. U. Liddle.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Roberts's Will Trusts; Younger *v.* Lewins.

Crossman, J. 22nd January, 1937.

TRUST—BANK TRUSTEE OF WILL—INCOME FEE ON SETTLED PROPERTY—WHETHER PAYABLE OUT OF INCOME OR CAPITAL OR RESIDUARY ESTATE.

The testatrix, who died in 1936, by her will appointed one Younger and the Westminster Bank to be executors and trustees, declaring that the bank should be entitled to remuneration in accordance with its scale of fees, free from duties. The terms on which the bank accepted and discharged such office were that they charged (1) an acceptance fee calculated on the gross value of the estate payable on the testator's death, (2) a withdrawal fee calculated on the capital value of any property withdrawn from the trust whether on distribution or otherwise, (3) an income fee to be charged on the actual income received and on the income collected and invested. The testatrix left certain pecuniary legacies and certain settled legacies, and, subject thereto and to the payment thereout of funeral and testamentary expenses and debts, directed the residuary estate to be divided, subject to further legacies, between certain persons. The question arose whether the income fees payable to the bank in respect of the settled legacies and the withdrawal fee in respect of the same were payable out of the income or capital of such legacies or out of the testatrix's residuary estate.

CROSSMAN, J., in giving judgment, said that it had been argued that the result of the declaration was that these fees were payable out of the capital of the residuary estate. But *In re Hulton* [1936] Ch. 536, and *In re Riddell* [1936] Ch. 747, did not apply. There was a difference between an annuity payable in full and clear of all deduction and the income of a settled legacy. Here there was no annuity, but certain sums were directed to be taken out of the estate before ascertaining the residue and when they were taken out, the residue was no longer liable to bear any expense connected with them. The income fee was an expense of the income of the particular trust fund and the withdrawal fee an expense falling on the capital of that fund. The acceptance fee, however, fell on the estate as a whole.

COUNSEL: *W. M. Hunt; Winterbotham; G. P. Slade; P. Brough; Herbert Hart.*

SOLICITORS: *Syrett & Sons; Sharpe, Pritchard & Co.*, agents for *Archibald Loy*, Doncaster.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Drapers' Company *v.* London Passenger Transport Board.

Luxmoore, J. 25th February, 1937.

LAND—ACQUISITION BY PUBLIC UNDERTAKING—COMPULSORY PURCHASE—MEASURE OF COMPENSATION—ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION ACT), 1919 (9 & 10 Geo. 5, c. 57)—LONDON PASSENGER TRANSPORT ACT, 1933 (23 Geo. 5, c. 14).

The defendants, wishing to acquire for the building of a station on the Central London Railway, certain premises owned by the plaintiffs, served on them a notice to treat on the 2nd October, 1935. The plaintiffs claimed a declaration that the compensation payable to them should be ascertained

under the Lands Clauses Acts, as provided by the London Electric, etc., Railway Act, 1931, and not under the Acquisition of Land (Assessment of Compensation) Act, 1919. Under the former 10 per cent. was added to the price for compulsory purchase and not under the latter.

LUXMOORE, J., in giving judgment, said that the notice was given under the London Transport Act, 1933, which by s. 1, established the defendants as a public authority. One of the objects of the Act was to transfer to them several undertakings including the Central London Railway, which by s. 5 (1) and Sched. II, vested in them. The Act extended to all the rights, powers and privileges of the transferred undertakings vested in them immediately before the appointed day (the 1st July, 1933). One of these was a power conferred on the Central London Railway by the London Electric, etc., Railways Act, 1931, to enter on and take certain lands including the lands now in question, the time for exercising the power being limited to the period ending the 31st October, 1934, but being subsequently extended by the London Passenger Transport Act, 1934, s. 68, to the 31st October, 1937. *Prima facie*, the Board had brought themselves within the Acquisition of Land (Assessment of Compensation) Act, 1919. But the plaintiffs had argued that it did not apply because by s. 5 (4) of the 1933 Act, the defendants were subject to all the liabilities and obligations to which the respective undertakers were subject before the appointed day and the Central London Railway could only have purchased on the terms imposed by the Lands Clauses Acts and their own Act of 1931. The fallacy of this appeared from the fact that by the appointed day the Railway had not served on the plaintiffs any notice to treat and, therefore, were not under any liability or obligation with regard to the premises. The plaintiffs had also argued that s. 68 of the Act of 1934 (which extended the time for the completion of the undertakings referred to subject to certain provisions for the protection of various bodies and persons) covered the provisions for compulsory purchase in the Act of 1931, which, it was urged, were for the protection or benefit of the plaintiffs. But there was no section in that Act for the protection or benefit of the plaintiffs. Finally, the plaintiffs had argued that the Act of 1919 did not apply because the express provisions of the Act of 1931 could not be altered by the Act of 1933 without clear words showing such an intention and had relied on *Blackpool Corporation* v. *Starr Estate Co.* [1922] 1 A.C. 27, but that case did not apply, because here there were no special provisions in the earlier Act for the protection of the plaintiffs. The action failed and the compensation must be ascertained under the Act of 1919.

COUNSEL: *Morton*, K.C., and *George Slade*; *W. E. T. Jones*, K.C. and *J. R. Willis*.

SOLICITORS: *Baker & Nairne*; *John Sloane Anderson*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Smith *v.* Benabo.

Lord Hewart, C.J., Swift and Goddard, JJ.
12th, 27th January, 1937.

METROPOLIS—DEAD SHORES ON PAVEMENT—ERECTED WITHOUT LICENCE—STATUTORY OFFENCE—SIMILAR OFFENCE DESCRIBED BY LATER STATUTE—VARIATION IN PENALTIES AND PROCEDURE—PROSECUTION UNDER EARLIER STATUTE—VALIDITY—GENERAL PAVING METROPOLIS ACT, 1817 (57 Geo. 3, c. xxix), s. 75—METROPOLIS MANAGEMENT ACT, 1855 (18 & 19 Vict. c. 120), ss. 122, 123, 247.

Case stated by a metropolitan magistrate.

In June, 1936, an information was preferred by the appellant, Smith, a street inspector, against the respondent, Benabo, for that, in March, 1936, at premises in Wicker Terrace, E., in the Metropolitan police district, she unlawfully set up two dead shores without a written licence from the borough engineer and the surveyor of the Borough of Stepney, contrary to s. 75 of the General Paving Metropolis Act, 1817 ("Michael Angelo Taylor's Act"). At the hearing of the information, the following facts were proved or admitted: In March, 1936, the appellant found set up on the footway outside the respondent's premises, two dead shores resting on a baulk of timber, which shores had been erected as a support to the premises in order to secure their safety as a preliminary to structural repairs. The two shores were set upright on the pavement between the front of the premises and the kerb. Each was 8 feet high and 6 inches by 4 inches in cross-section, and they stood about 12 feet apart, each in the middle of the pavement. By s. 75 of the Act of 1817, no person may erect in any public place any "hoard or scaffolding . . . or erect any posts, bars, rails, boards, or other thing, by way of inclosure, for the purpose of making mortar . . . or for other works, or for any other purpose, without leave . . . first had and obtained" from the surveyor of pavements of the district. It was contended for the appellant that the dead shores came within the description "posts . . . or other thing" in s. 75; that the prohibition of erections in the section was not limited to the setting up of "posts . . . or other thing" by way of enclosure only; alternatively, that the dead shores were scaffolding within the meaning of the section. It was contended for the respondent that s. 75 of the Act of 1817 was impliedly repealed by the effect of ss. 122 and 123 of the Metropolis Management Act, 1855; that the prohibition in s. 75 was limited to erection of the forbidden things by way of enclosure; and that the shores neither formed an enclosure nor were scaffolding within the meaning of the section. The magistrate held that, in view of s. 247 of the Act of 1855, ss. 122 and 123 of that Act did not have the effect of repealing s. 75 of the Act of 1817; that the prohibition in s. 75 related only to the erection of posts, etc., by way of enclosure; that the words "or for any other purpose" qualified "by way of inclosure" and referred to the object of the enclosure; that the shores were not erected by way of enclosure; and that they were not used as scaffolding. *Cur. adv. vult.*

GODDARD, J., reading the judgment of the court, said, with regard to the respondent's first contention, that s. 122 of the Act of 1855 provided in substance that it should not be lawful to set up in any street any hoard or scaffold for any purpose, nor any posts, etc., or other thing by way of enclosure for making mortar, etc., without a licence which was to contain the same particulars as were required in a licence under the earlier Act. Section 123 provided penalties different from, and more severe than, those prescribed by the Act of 1817, and there was some difference in other provisions. Apart from s. 247 of the later Act (a repeal section), it was a well-settled rule of construction that, if a later statute again described an offence created by an earlier one, and imposed a different punishment, or varied the procedure, the earlier statute was repealed. Section 122 of the Act of 1855 in substance described exactly the same offence as that described in s. 75 of the earlier Act. Section 75 was accordingly repealed by the later Act. The court, however, thought it well to emphasise that their judgment gave no countenance to the idea that such structures as those in question in this case could be erected without a licence. They only decided that these proceedings had been brought under a repealed statute instead of under one in force, and it was accordingly unnecessary to adjudicate on the respondent's other contention. The appeal must be dismissed.

COUNSEL: *N. Macaskie*, K.C., and *T. Dawson*, for the appellant; *Goldie*, for the respondent.

SOLICITORS: *Edward Fail*; *C. V. Young & Son*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Sir Francis Pepper, solicitor, of Handsworth, left £87,671, with net personalty £80,196.

Beetham *v.* James.

Atkinson, J. 2nd February, 1937.

SEDUCTION—PLAINTIFF LIVING WITH BUT NOT MARRIED TO MOTHER OF SEDUCED GIRL—SERVICES PROVED—RELATION OF MASTER AND SERVANT—WHETHER ACTION LIES.

Action for damages for seduction.

The case was opened with a statement that the plaintiff had been happily married for thirty-four years. The plaintiff himself gave evidence that he was married on the 24th July, 1903, at Weobley, in Herefordshire, that Mabel was his daughter aged twenty-two at the material time, and that she had suffered a miscarriage owing to her seduction by the defendant. His "wife" also swore that she had been married at the named church and place, but subsequently admitted that she had never been married to the plaintiff, but that they had agreed to say that they were married for the sake of their reputation. Mabel was not the plaintiff's child. In 1935 Mabel and her unmarried brother were living at home. It was the plaintiff's home, and he paid the rent. Mabel had been in employment, and contributed £1 a week to the home. The plaintiff bore the main burden of the home. When Mabel returned from work she helped her mother with the washing-up and did her own room. Those were the services relied on.

ATKINSON, J., said that it had been argued for the defendant that if the plaintiff had been married the services would in law no doubt have been rendered to him, but if he was not married to the mother, services so personal to the mother could not be held to be rendered to him. He (his lordship) did not see how it could make any difference that the father was not married. It was argued that in such a case the services of a girl under twenty-one were owed to the mother alone. He thought that that was a fallacy, and that the services were owed to the master of the house. His lordship referred to *Hamilton* v. *Long* [1903] 2 I.R. 407, and to the judgment of the Lord Chief Justice, Lord O'Brien, at p. 411. In *Peters* v. *Jones* [1914] 2 K.B. 781, again, the question arose to whom were the services being rendered, and again it was held "to the husband," not because he was the girl's father, for he was not, but because he was the head of the household. Avory, J., said [1914] 2 K.B., at p. 784: "I think it is plain that the foundation of the action is not the relationship of parent and child, but that of master and servant." Again, at p. 787, Avory, J., said: "The moment that one appreciates that the action is based on the relationship of master and servant and not on that of parent and child one sees that the only question for determination is who was the girl's master at the material times." If that were the test, there could only be one answer. The plaintiff was just as much the master as if he had been Mrs. Beetham's husband. He (his lordship) did not say that there might not be cases where the fact that the plaintiff was not married might be a material factor, as, for instance, if a man were merely paying occasional visits to a mistress, and the question was in doubt whose was the establishment, but that did not affect the present case.

COUNSEL: *J. Bassett*, for the plaintiff; *Holroyd Pearce*, for the defendant.

SOLICITORS: *Schultess-Young & Co.*; *Bickerton Pratt.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

At a meeting of the Judges of the Supreme Court held under s. 52 and s. 210 of the Supreme Court of Judicature (Consolidation) Act, 1925, it was resolved to recommend that the Whitsuntide Vacation should be altered so that the Easter Sittings should end on Tuesday, 11th May, and the Trinity Sittings should begin on Monday, 24th May. It is proposed to submit the draft of an Order in Council for this purpose at an early date.

Obituary.

SIR WALTER CLODE, K.C.

Sir Walter Baker Clode, K.C., President of the Railway Rates Tribunal from 1922 until 1932, died at Westminster, on Saturday, 27th February, in his eighty-first year. He was educated at Winchester and Oriel College, Oxford, and in 1881 he was called to the Bar by the Inner Temple, and went the North-Eastern Circuit. He took silk in 1912, and in 1921 he became a Bencher of his Inn. He was appointed President of the Railway Rates Tribunal in 1922, and he received the honour of Knighthood in 1928.

MR. J. G. FAWCUS.

Mr. John George Fawcus, Barrister-at-Law, of Old Square, Lincoln's Inn, died on Friday, 26th February, in his eighty-ninth year. Mr. Fawcus, who was a Fellow of Trinity College, Cambridge, and Hon. Fellow of King's College, London, was called to the Bar by the Inner Temple in 1875.

MR. J. SEWELL.

Mr. John Sewell, retired solicitor, of Carlisle, died on Saturday, 20th February. Mr. Sewell served his articles with Messrs. Wright & Brown, of Carlisle, and Messrs. Gray and Mounsey, of Staple Inn, W.C., and was admitted a solicitor in 1881. He was President of the Carlisle and District Law Society from 1919 to 1921. He retired in 1929. He was appointed honorary Secretary of the Carlisle Liberal Association in 1890, and held that position for seventeen years.

MR. H. G. TEALE.

Mr. Herbert Greenwood Teale, solicitor, of Leeds, died in London on Friday, 26th February, at the age of seventy-seven. Mr. Teale, who was admitted a solicitor in 1885, was appointed Clerk to the Leeds West Riding Magistrates in 1891, in succession to his father, who had held the position for thirty-eight years.

Rules and Orders.

THE NON-CONTENTIOUS PROBATE RULES, 1937.
DATED FEBRUARY 10, 1937.

I, the Right Honourable Sir Boyd Merriman, President of the Probate, Divorce and Admiralty Division of the High Court of Justice, with the concurrence of the Right Honourable Douglas McGarel, Viscount Hailsham, Lord High Chancellor of Great Britain, and the Right Honourable Gordon, Baron Hewart, Lord Chief Justice of England by virtue of section 100 of the Supreme Court of Judicature (Consolidation) Act, 1925,* and all other powers enabling me in this behalf, hereby order as follows:—

1. In these Rules, "the Principal Rules" means the Rules and Orders and Instructions for the Registrars of the Principal Registry of the Court of Probate in respect of Non-Contentious business, dated the 30th July, 1862, as amended by any subsequent Rules.†

2. In the proviso to Rule 81 of the Principal Rules, after the words "letters of administration," there shall be inserted the words "or of the record of the re-sealing in England of a Scottish Confirmation."

3.—(1) These Rules may be cited as the Non-Contentious Probate Rules, 1937, and shall come into operation on the 1st day of March, 1937; and the Principal Registry Rules, as amended, shall have effect as further amended by these Rules.

(2) The Provisional Non-Contentious Probate Rules, 1936, which came into operation on the 1st day of January, 1937, as Provisional Rules shall continue in force till the 1st day of March, 1937, on which day the said Rules shall be superseded and replaced by these Rules.

Dated the 10th day of February, 1937.

F. B. Merriman, P.

We concur.
Hailsham, C.
Hewart, C.J.

* 15 & 16 Geo. 5, c. 49.
† S.R. & O. Rev. 1904, XII, Supreme Court, E., p. 756, as amended by S.R. & O. 1921 (No. 649) p. 1287, 1925 (No. 1231) p. 1539, 1926 (No. 1044) p. 1246, 1932 (No. 1015) p. 1085, 1933 (No. 985) p. 1823 and 1934 (No. 366) II, p. 604.

Parliamentary News.

Progress of Bills.

House of Lords.

Architects Registration Bill.
Read Third Time. [25th February.
British Shipping (Continuance of Subsidy) Bill.
Read First Time. [2nd March.
Children and Young Persons (Scotland) Bill.
Read First Time. [2nd March.
Deaf Children (School Attendance) Bill.
Read First Time. [25th February.
East India Loans Bill.
Read Third Time. [25th February.
Empire Settlement Bill.
Read Second Time. [3rd March.
Lancashire Electric Power Bill.
Read First Time. [2nd March.
Liverpool Exchange Bill.
Read First Time. [2nd March.
Margate, Broadstairs and District Electricity Bill.
Read Third Time. [2nd March.
Merchant Shipping Bill.
Read First Time. [2nd March.
National Health Insurance Act (Amendment) Bill.
Read Third Time. [3rd March.
Public Health (Drainage of Trade Premises) Bill.
Read First Time. [3rd March.
Reserve Forces Bill.
Reported, without Amendment. [2nd March.
Rickmansworth and Uxbridge Valley Water Bill.
Read Third Time. [2nd March.

House of Commons.

Annual Holiday Bill.
Reported. [3rd March.
Architects Registration Bill.
Read First Time. [25th February.
British Shipping (Continuance of Subsidy) Bill.
Read Third Time. [1st March.
Caledonian Power Bill (Substituted Bill).
Read First Time. [1st March.
Deaf Children (School Attendance) Bill.
Read Third Time. [24th February.
Defence Loans Bill.
Reported, without Amendment. [1st March.
Employers' Liability Bill.
Second Reading negatived. [26th February.
Geneva Convention Bill.
Read Third Time. [1st March.
Greenock Burgh Extension, etc., Order Confirmation Bill.
Read Third Time. [25th February.
Lancashire Electric Power Bill.
Read Third Time. [1st March.
Liverpool Exchange Bill.
Read Third Time. [1st March.
Local Government (Financial Provisions) Bill.
Read Third Time. [3rd March.
Local Government (Financial Provisions) (Scotland) Bill.
Read First Time. [1st March.
Margate, Broadstairs and District Electricity Bill.
Read First Time. [2nd March.
Merchant Shipping Bill.
Read Third Time. [1st March.
Ministry of Health Provisional Order (Earsdon Joint Hospital District) Bill.
Reported, with Amendments. [2nd March.
Newquay and District Water Bill.
Read Second Time. [2nd March.
North Staffordshire Road Transport Board Bill.
Second Reading negatived. [3rd March.
Regency Bill.
Lords Amendments agreed to. [1st March.
Rickmansworth and Uxbridge Valley Water Bill.
Read First Time. [2nd March.
Road Traffic (Licensing of Vehicles) Bill.
Read First Time. [2nd March.
Southern Railway Bill.
Read Second Time. [3rd March.

Questions to Ministers.

HIGH COURT (OFFICIAL SHORTHAND WRITERS).

Mr. DOBBIE asked the Attorney-General whether any decision has been reached on the question of setting up a system of official shorthand writing in the High Court of Justice; whether it is proposed to publish the report of the committee presided over by Mr. Justice Atkinson on this subject; whether he is aware that nearly two years have passed since questions were put on this matter in the House; and when he expects to be able to make a definite statement on the subject.

THE ATTORNEY-GENERAL: My noble Friend the Lord Chancellor has decided to adopt the recommendations of the committee referred to by the hon. Member and to institute a system of official shorthand note taking in witness actions tried in the Chancery and the King's Bench Courts and on Assize. My noble Friend is in consultation with His Majesty's Treasury with a view to introducing suitable arrangements at as early a date as possible. The report of the committee will be published in due course. [1st March.

QUARTER SESSIONS (COUNSEL).

SIR ARNOLD WILSON asked the Home Secretary whether his attention has been called to the judgment of the Court of Criminal Appeal, delivered on 24th February, in the case of *Rex* v. *Riordan*; and whether he proposes to issue a circular as to the desirability of instructing counsel to prosecute at quarter sessions in all cases where the liberty of young persons is concerned.

Mr. LLOYD: My right hon. Friend has seen a Press report of the judgment in the case referred to. As regards the second part of the question he has no authority to issue a circular to courts of quarter sessions in the sense suggested, but I have no doubt that due note will have been taken of the *dicta* of the Court of Criminal Appeal in this case, and that suitable arrangements will be made to meet the criticisms to which it gave rise. [3rd March.

Societies.

The Law Society.

PRELIMINARY EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 10th and 11th February, 1937:—

Oswald Frank MacDonald Addison, Richard Grant Ash, William Alexander Baddiley, Morris Bennett, Alfred Stanley Gould Boulton, William Brand Carter, George Ingram Chisholm, Geoffrey Newman Chopping, Philip Elias Raymond Cohen, Neville Coleman, Raymond Walter Coleman, Robert Lionel Cross, Derek Woolf Davis, Reginald Grosvenor Fletcher, Brian Hannibal, Michael Newsome Joscelyne, Anthony Keith-Roach, Patrick John Stevenson Lawrence, Edward Levy, Wilfrid Stephen Lynch, Arthur John Meek, Kenneth Meyrick Meyrick, Darrell Bentley Morgan, Roger Michael Moser, Frank Moreton Moss, Antony Charles Palmer, Reginal Albemarle Parkin, Douglas Richard Pate, Martin Hugh Pothecary, John Henry Prime, Sholto Haig Scott, William Hanson Short, Reginald Ernest Smith, Ernest Stapylton Staines, Alfred Edward Thomason, Ian Llewellyn Tibbs, Michael John Tilbrooke, Francis Henry Twigg, John Mackie Walker, Frank Allan Wartnaby, Charles Arthur White, Charles Walter Wilbourn.

No. of candidates, 105; passed, 42.

University of London Law Society.

ANNUAL DINNER.

The University of London Law Society held its annual dinner at Kettners Restaurant, on Wednesday, 24th February. Mr. F. E. C. Wood (President) was in the chair.

The toast of "The Guests" was proposed by the President, and acknowledged by Lord Maugham.

The toast of "The University of London Faculty of Law" was proposed by Sir Boyd Merriman (President of the Probate, Divorce and Admiralty Division). Referring to the good work of the Poor Persons Department at the Law Courts, he said that he knew perhaps better than any other judge precisely what that department did. Twenty per cent. of the matrimonial suits in London and 60 per cent. of such tried on assize were conducted under the Poor Persons Rules. This work was one of the most important social services. If it were not for the generous assistance of counsel and solicitor there would be by now a sum total of human misery which it would be impossible to contemplate. He appealed to them to make this work a charge upon their time when the opportunity came.

Sir Ernest Gordon Graham-Little, M.P., responded, and called for a closer co-operation between the academic side and the Inns of Court

"The Legal Profession" was proposed by Lieut.-Col. Sir Arnold Talbot Wilson, M.P., and responded to by Mr. F. A. Macquisten, K.C., M.P.

"The University of London Law Society" was proposed by Mr. G. W. Keeton, and responded to by the hon. secretary, Mr. D. Sacker.

The toast of "The Chairman" was proposed by Mr. H. Betuel, and acknowledged by Mr. F. E. C. Wood.

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, 1st March, at 8 p.m. Mr. A. J. Pratt proposed the motion: "That in the opinion of this House Blood Sports should be abolished." Mr. J. L. P. Harris opposed. Mr. Wood-Smith, Miss Colwill, Messrs. H. W. Pritchard, McQuown, C. H. Pritchard, Vine Hall and Sharp also spoke and Mr. Pratt replied. The motion was put to the House and lost by five votes to seven. Attendance fourteen.

The Hardwicke Society.

A meeting of the Society was held on Friday, 19th February, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. J. A. Petrie, in the chair. Mr. J. A. Grieves moved: "That the foreign policy of France is a danger to Europe." Mr. P. A. Picarda opposed. There also spoke Mr. Walter Stewart, Mr. J. Reginald Jones, Mr. A. A. Baden Fuller, Mr. Cooke, Mr. Lewis Sturge (Hon. Secretary), Mrs. Grieves, Mr. Willis, Mr. A. C. Douglas, Mr. J. A. Petrie (President) and Prince L. Lieven. The Hon. Mover having replied, the House divided, and the motion was carried by two votes.

The ex-president's debate took place at a meeting of the Society held on Friday, 26th February, at 8.15 p.m., in the Middle Temple Common Room, the president, Mr. J. A. Petrie, in the chair. Mr. G. E. Crawford moved "That the fathers have eaten sour grapes and the children's teeth are set on edge." Mf. Stephen Benson opposed. There also spoke Mr. Pratt, Master Valentine Ball Mr. P. B. Morle, Mr. D. Campbell Lee, Mr. Geoffrey Tindale, Mr. Ifor Lloyd, Mr. G. E. Llewellyn Thomas, Mr. Lewis Sturge, Mr. J. Reginald Jones, Mr. Harper, Mr. Knight Dix. The hon. mover having replied, the house divided, and the motion was lost by three votes.

The Solicitors' Managing Clerks' Association.

The annual meeting of this Association was held at The Law Society's Court Room on 18th February. Mr. George T. Denton, the president, who took the chair, said that the year under review had been a busy one, because in addition to the Council's normal activities, certain domestic matters had taken up a good deal of time and labour. It might before long be impossible to carry on the work on a wholly voluntary basis, as had been done for so long. Under Lord Riddell's will the Association was entitled to a share of the residuary estate. It had duly received a total of £26,245, of which £25,000 was invested. The balance was spent in carrying out the recommendations of a special committee which had considered what should be done with the bequest. The Association had moved into new offices at Maltravers House last May, and about £500 had been spent on re-stocking and re-arranging the library. Arrangements had been made to publish the *Gazette* monthly instead of quarterly. A consultation had taken place between Mr. A. E. Read, the honorary secretary of the Bournemouth branch, and members of the Council, as a result of which the Council had rented a room for the branch for seven years and granted £50 towards the cost of furnishing and fitting it up. Steps were being taken to give effect to the recommendations of the "Lark Committee," which had been appointed to recommend means for improving the membership and activities of the Association. The activities would for the present be confined to London, the Association would advertise its advantages in the legal weeklies, and a letter enclosing an account of its history would be sent to managing clerks of all firms in London not at present represented on the Association.

When the Council of the Association had heard that The Law Society proposed to issue Rules under the Solicitors Act, 1933, s. 1, it had requested the Society to send it a draft for consideration. By some oversight no draft had been sent, but a few weeks later it had received a print of the Rules as sanctioned by the Master of the Rolls. It was obvious that these Rules might seriously affect the position of many managing clerks. The Council had suggested to The Law Society that certain words should be inserted in the first part of r. 3 (sharing of profit costs with unqualified persons) to make it unobjectionable to solicitors' clerks. The Council of The Law Society had replied that they were not prepared to agree to any amendment but that they would receive a deputation. The deputation, consisting of the president and three members of the Council, had discussed the matter with the special committee of The Law Society for over an hour but had not gained their point, and it might become necessary to present a petition to the Master of the Rolls.

The annual report of the Council, which was adopted by the meeting, stated that lectures had been delivered in the Inns of Court by members of the Bar to large numbers of members; and classes for junior clerks on conveyancing and the law of private companies, and classes on common law actions and contracts, were held in the Lord Chief Justice's court. Members' meetings had been held regularly and had discussed several interesting papers. A course of lectures on the Housing and Town Planning Acts and the Ribbon Development Act had been arranged for the beginning of the present year. The new registers for clerkships vacant and wanted had proved valuable and a number of vacant posts had been filled by their agency during the year. The secretary of the United Law Clerks' Society had co-operated in this work. The Bournemouth branch, whose honorary secretary is Mr. A. E. Read, reported another encouraging year, during which it held successful classes and lectures. Mr. R. S. Arnold was unanimously elected president for the coming year.

The Union Society of London.

A meeting of the Society was held at the Middle Temple Common Room, on Wednesday, the 24th February, at 8.15 p.m., the President (Mr. S. R. Lewis) being in the chair. The Vice-President (Mr. E. J. Rendle) proposed the motion "That the standards of life of our workers are menaced by decaying capitalism and that the economic salvation of Britain lies in Socialism." Mr. Hurle-Hobbs opposed, and Capt. W. J. Miller (Fabian Society), Mr. Picarda, Mr. Ingram, Mr. Orme, Mr. Irwin, Mr. Tehitim (visitor), Mr. Bassett, the Vice-President, Mr. Buckland and Mr. Fraser also spoke. Capt. Miller replied. Upon a division the motion was lost by seven votes.

A meeting of the Society was held at the Middle Temple Common Room on Wednesday, the 3rd March, at 8.15 p.m., the President (Mr. S. R. Lewis) being in the chair. Mr. J. A. Grieves proposed the motion: "That justice was not done at the recent trials in Russia." Mr. Kenneth Ingram opposed, and Mr. Russell-Clarke, Mr. Picarda, Mr. Hurle-Hobbs, Mr. Sandilands, Mr. Buckland, the Hon. Secretary, Mr. Fraser and Mr. Grier also spoke. Mr. Grieves replied. Upon a division the motion was carried by two votes. The Annual Ladies' Night Debate will be held in the Old Hall, Lincoln's Inn (by courtesy of the Masters of the Bench), on Wednesday, 17th March, at 8 p.m. Visitors are invited to attend.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve that SIR HARRY TRELAWNEY EVE be sworn of His Majesty's Most Honourable Privy Council on his resignation of the office of Justice of the High Court of Justice.

His Majesty has also been pleased to approve the appointment of MR. GAVIN TURNBULL SIMONDS, K.C., as one of the Justices of the High Court of Justice (Chancery Division). Mr. Simonds was called to the Bar by Lincoln's Inn in 1906, and took silk in 1924.

The King has been pleased to approve the appointments of Mr. Justice ALFRED HENRY LIONEL LEACH, Puisne Judge of the High Court of Judicature at Rangoon, as Chief Justice of Madras in succession to Sir Owen Beasley, who will retire in July next; and of SIR MUHAMMAD ABDUR RAHMAN as a Puisne Judge of the High Court of Judicature at Madras, in succession to Mr. Justice Cornish, who will retire in August next.

The Lord Chancellor has appointed Mr. FRANCIS KENDRAY ARCHER, K.C., of 2, Argyll Road, Kensington, W.8, to be a Judge of County Courts, and to act as additional judge of Circuit No. 50 (Brighton, etc.). The appointment is dated

the 27th February, 1937. Mr. Archer was called to the Bar by Lincoln's Inn in 1912, and took silk in 1923.

Mr. A. J. B. LANGFORD, M.A. (Cantab.), Assistant Solicitor, Luton, has been appointed Assistant Town Clerk, Hereford. Mr. Langford served his articles with the Town Clerk, Mr. W. H. Robinson.

Mr. F. D. V. CANT has been appointed Assistant Solicitor to the Herefordshire County Council. Mr. Cant, who was admitted a solicitor in 1931, is at present Chief Assistant to the Town Clerk, Hereford.

Mr. C. H. WILD, Assistant Solicitor, Lowestoft, has been appointed to a similar post with Torquay Corporation. Mr. Wild was admitted a solicitor in 1934.

Mr. R. PICKARD has been appointed Clerk to the Sidmouth Urban Council in succession to Mr. P. H. Michelmore, who has resigned after holding that office for twenty-three years.

Notes.

Last Saturday was the thirtieth anniversary of the opening of the Central Criminal Court by King Edward VII.

Mr. E. S. Raybould, town clerk of Battersea, has retired after serving the council for forty-seven years. For fifteen years he has not missed a council meeting.

Mr. Harry Norton Weller, managing clerk to Messrs. Huntley, Son & Phillips, solicitors, of Tooley Street, S.E., collapsed and died at the Law Courts last Monday.

A congratulatory dinner to Sir Leslie Scott on his appointment as a Lord Justice of Appeal will be given by the Northern Circuit in the Inner Temple Hall on Saturday, 13th March, at 7.30.

The Auctioneers' and Estate Agents' Institute of the United Kingdom announce that 181 candidates sat for the Preliminary Examination and 103 were successful. Mr. F. W. G. Gant, of Southsea, was placed first in order of merit.

Lord Sankey, who presided at the annual meeting of the Surrey and London Prisoners' Aid Society, at the Middlesex Guildhall, Westminster, last Monday, said subscriptions and donations for 1936 totalled £1,767, one of the best years the Society had known. The great features of the Society's work were the small amount spent on administration and the very large amount spent in helping discharged men.

The Chadwick Trustees announce that a lecture on "Legal Aspects of Sanitary Science—The Public Health Acts, 1875 to 1936, Provisions and Bye-laws of 1936," will be given by Mr. W. T. Cresswell, K.C., in the Hall of Gray's Inn, Holborn, on Tuesday, 9th March, at 8.15 p.m. Mr. P. MacIntyre Evans, C.B.E., M.A., LL.D. (Chadwick Trustee), will preside. Admission free. Further information about these and other Chadwick Public Lectures may be obtained of the Secretary, Mrs. Aubrey Richardson, O.B.E., at the offices of the Trust, 204, Abbey House, Westminster.

Court Papers.

Supreme Court of Judicature.

Date.	Emergency Rota.	Appeal Court No. I.	Group I. Mr. Justice Eve. Witness Part I.	Group I. Mr. Justice Bennett. Witness Part II.
	Mr.	Mr.	Mr.	Mr.
Mar. 8	More	Jones	*Blaker	*More
,, 9	Hicks Beach	Ritchie	*More	*Hicks Beach
,, 10	Andrews	Blaker	*Hicks Beach	*Andrews
,, 11	Jones	More	Andrews	*Jones
,, 12	Ritchie	Hicks Beach	Jones	*Ritchie
,, 13	Blaker	Andrews	Ritchie	Blaker
	Group I. Mr. Justice Crossman. Non-Witness	Mr. Justice Clauson. Non-Witness	Group II. Mr. Justice Luxmoore. Witness Part II.	Mr. Justice Farwell. Witness Part I.
	Mr.	Mr.	Mr.	Mr.
Mar. 8	Hicks Beach	Ritchie	Jones	*Andrews
,, 9	Andrews	Blaker	Ritchie	*Jones
,, 10	Jones	More	Blaker	*Ritchie
,, 11	Ritchie	Hicks Beach	More	*Blaker
,, 12	Blaker	Andrews	Hicks Beach	*More
,, 13	More	Jones	Andrews	Hicks Beach

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 18th March, 1937.

	Div. Months.	Middle Price 3 Mar. 1937.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	109½	3 13 1	3 6 10
Consols 2½%	JAJO	77xd	3 4 11	—
War Loan 3½% 1952 or after	JD	103	3 8 0	3 5 2
Funding 4% Loan 1960-90	MN	112½	3 11 1	3 4 5
Funding 3% Loan 1959-69	AO	97	3 1 10	3 3 0
Funding 2½% Loan 1956-61	AO	88¾	2 16 4	3 3 6
Victory 4% Loan Av. life 23 years	MS	109½	3 13 1	3 7 11
Conversion 5% Loan 1944-64	MN	115½	4 6 9	2 8 5
Conversion 4½% Loan 1940-44	JJ	107½	4 3 9	2 17 4
Conversion 3½% Loan 1961 or after	AO	101½	3 9 0	3 8 1
Conversion 3% Loan 1948-53	MS	100½	2 19 8	2 18 11
Conversion 2½% Loan 1944-49	AO	97xd	2 11 7	2 16 0
Local Loans 3% Stock 1912 or after	JAJO	89½xd	3 7 0	—
Bank Stock	AO	350½	3 8 5	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	80	3 8 9	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	90	3 6 8	—
India 4½% 1950-55	MN	111½	4 0 9	3 7 9
India 3½% 1931 or after	JAJO	91xd	3 16 11	—
India 3% 1948 or after	JAJO	78½xd	3 16 5	—
Sudan 4½% 1939-73 Av. life 27 years	FA	112	4 0 4	3 15 8
Sudan 4% 1974 Red. in part after 1950	MN	112	3 11 5	2 18 9
Tanganyika 4% Guaranteed 1951-71	FA	109	3 13 5	3 3 10
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	105	4 5 9	3 8 0
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	89½	2 15 10	3 5 0
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	106	3 15 6	3 10 11
Australia (C'mm'nw'th) 3% 1955-58	AO	93	3 4 6	3 9 2
Canada 4% 1953-58	MS	107	3 14 9	3 8 6
*Natal 3% 1929-49	JJ	99	3 0 7	3 2 0
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
New Zealand 3% 1945	AO	96xd	3 2 6	3 11 9
Nigeria 4% 1963	AO	112	3 11 5	3 6 5
*Queensland 3½% 1950-70	JJ	100	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	102	3 8 8	3 6 8
*Victoria 3½% 1929-49	AO	99xd	3 10 8	3 12 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	91½	3 5 7	—
Croydon 3% 1940-60	AO	96½xd	3 2 2	3 4 4
Essex County 3½% 1952-72	JD	104½	3 7 0	3 2 8
Leeds 3% 1927 or after	JJ	90	3 6 8	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	100xd	3 10 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	75½	3 6 3	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	86	3 9 9	—
Manchester 3% 1941 or after	FA	88	3 8 2	—
Metropolitan Consd. 2½% 1920-49	MJSD	97	2 11 7	2 16 0
Metropolitan Water Board 3% "A" 1963-2003	AO	87	3 9 0	3 10 2
Do. do. 3% "B" 1934-2003	MS	89	3 7 5	3 8 5
Do. do. 3% "E" 1953-73	JJ	95	3 3 2	3 4 9
Middlesex County Council 4% 1952-72	MN	109	3 13 5	3 5 5
* Do. do. 4½% 1950-70	MN	110½	4 1 5	3 10 8
Nottingham 3% Irredeemable	MN	87½	3 8 7	—
Sheffield Corp. 3½% 1968	JJ	103½	3 7 8	3 6 4
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	105	3 16 2	—
Gt. Western Rly. 4½% Debenture	JJ	114½	3 18 7	—
Gt. Western Rly. 5% Debenture	JJ	127½	3 18 5	—
Gt. Western Rly. 5% Rent Charge	FA	122½	4 1 8	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	120½	4 3 0	—
Gt. Western Rly. 5% Preference	MA	113	4 8 6	—
Southern Rly. 4% Debenture	JJ	104½	3 16 7	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	108	3 14 1	3 10 3
Southern Rly. 5% Guaranteed	MA	120½xd	4 3 0	—
Southern Rly. 5% Preference	MA	111½	4 9 8	—

*Not available to Trustees over par.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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